

on Rules] opens the resolution to amendment and further debate.” (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon.”

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority’s agenda to offer an alternative plan.

Mr. SESSIONS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair’s prior announcement, further proceedings on this question will be postponed.

#### GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous materials on H.R. 2965, to be considered shortly.

The SPEAKER pro tempore (Mr. SESSIONS). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

#### FEDERAL PRISON INDUSTRIES COMPETITION IN CONTRACTING ACT OF 2006

The SPEAKER pro tempore. Pursuant to House Resolution 997 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2965.

□ 1132

#### IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2965) to amend title 18, United States Code, to require Federal Prison Industries to compete for its contracts minimizing its unfair competition with private sector firms and their noninmate workers and empowering Federal agencies to get the best value for taxpayers’ dollars, to provide a 5-year period during which Federal Prison Industries adjusts to obtaining inmate work opportunities through other than its mandatory source status, to enhance inmate access to remedial and vocational op-

portunities and other rehabilitative opportunities to better prepare inmates for a successful return to society, to authorize alternative inmate work opportunities in support of nonprofit organizations and other public service programs, and for other purposes, with Mr. BOOZMAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 2965, the Federal Prison Industries Competition and Contracting Act of 2006. This bill is substantially similar to H.R. 1829, which this body passed overwhelmingly during the 108th Congress by a vote of 350–65.

As reported by the Judiciary Committee, the bill includes additional bipartisan improvements that resulted from negotiations with the Justice Department, prison fellowship, and other interested parties.

Since my early days in the Congress, I have been committed to reforming Federal Prison Industries, or FPI, because I believe the manner in which this program currently operates imposes unacceptable burdens on government agencies, taxpayers, inmates, and private sector businesses.

Under the current system, Federal agencies are required by law to purchase FPI products that meet the agencies’ requirements and do not exceed current market prices. The mandatory source requirement eliminates competition with the private sector, harming businesses and stifling the creation of new jobs for law-abiding Americans. FPI enjoys a mandatory market for its goods, a facility to produce them in and cheap labor to manufacture them.

Despite these advantages, government agencies frequently pay more for FPI products than if they were purchased from the private sector. The Government Accountability Office concluded in a 1988 report that “The only limitation on FPI’s price is that it may not exceed the upper end of the current market price range.” The GAO report also raised questions about the timeliness of delivery of these products and the quality of FPI products.

While the FPI has had serious problems, this legislation does not seek to eliminate it, but would reform FPI to require that it compete for Federal Government contracts in the same manner as other businesses. FPI is well equipped to succeed in the competitive marketplace because it is not faced with the same operating costs as average businesses, such as providing health insurance, retirement benefits, or paying union wages. And the facili-

ties, of course, that FPI does use in the manufacturing process are Federal prisons and not on property tax rolls.

In recent years, FPI has demonstrated its competitiveness by obtaining several large, multiyear contracts with the Department of Defense and other Federal agencies, even though government procurement policies have been changed to permit these agencies to determine whether FPI products meet competitive pricing and quality benchmarks.

This legislation also helps inmates by establishing a position of Inmate Work Training Administrator to create additional inmate work opportunities, and allows FPI to create a program that will allow inmates to perform jobs that are being performed outside the United States. The bill also addresses concerns about providing meaningful training for inmates by requiring FPI to devote some of its earnings to additional inmate vocational training, education opportunities, and release preparation.

The bill increases access to educational opportunities, including remedial and modern, hands-on vocational programs which have been shown to be effective in reducing recidivism. The bill provides alternative inmate work opportunities by authorizing the production of products or services for donation to community service organizations, and allows Federal inmates to perform public service work for units of local government.

Finally, the bill addresses concerns about the low wages paid to inmates by requiring the Secretary of Labor to establish an inmate training wage in consultation with the Attorney General for those performing FPI jobs.

Mr. Chairman, as Members of Congress, we have a duty to ensure that government corporations do not take away opportunities from small businesses. We have a duty to ensure that the taxpayers’ money is wisely spent. Neither of these things can be guaranteed under the current FPI regime. By passing this legislation we will ensure that all Federal Government agencies will have the ability to utilize taxpayer dollars in the most efficient manner possible, and that private industry will have the right to compete with FPI for contracts.

H.R. 2965 will also ensure the continued viability of FPI, and provides many avenues for FPI to pursue alternative rehabilitative work and training opportunities for inmates.

Mr. Chairman, I am proud of this comprehensive legislation to reform the Federal Prison Industries. I urge Members to support it.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself as much time as I may consume.

Ladies and gentlemen of the Congress, this is a very important and sensitive issue that is being brought by Chairman SENSENBRENNER and myself

today in support of H.R. 2965: How do we deal with the rehabilitation of prisoners and balance it against the rising unemployment that is affecting and afflicting this Nation so much?

As currently drafted, this bill, to me, strikes the appropriate balance between the needs of Federal inmates versus the needs of everyday men and women looking for gainful employment in the civilian workforce; and this was arrived at through a great deal of activity and negotiation with Members on both sides of the aisle.

First, the legislation establishes a gradual phaseout of the current mandatory source requirement. As many know, the mandatory source requirement compels all Federal agencies to purchase their goods and services from the Federal Prison Industries program. A phaseout of this requirement will allow private sector companies to effectively compete for additional Federal contracts, which in turn will produce an increase in private sector jobs, many to be filled by members of our local labor unions across the country.

The second thing we do here is to ensure that the Federal inmates continue to have adequate access to training opportunities during and after the phaseout. The legislation authorizes a minimum of \$75 million a year for purposes of educating inmates and teaching them valuable vocational skills. This new language was added to the text of the underlying bill at my request and will guarantee that all Federal inmates are equipped with the necessary skills to successfully reenter society upon their release from prison.

This has been a very difficult problem in the corrections arena over the years. This is not new. It is something we have been working on for a long time, and we have come to this new agreement that is embodied in H.R. 2965.

And, finally, to protect against inmate idleness and assure that the safety of prison guards is intact, the legislation includes what has been referred to as a safety valve. The safety valve would allow the Attorney General to direct the award of a sole-source contract to the Federal Prison Industries whenever necessary to, "prevent circumstances that could reasonably be expected to significantly endanger the safe and effective administration" of a particular prison.

Now, we all know that the job market, and the economy as a whole for that matter, have not fared well under the current administration. In Michigan alone the State's unemployment rate is roughly 7 percent, but in some areas it is 5 or 6 times that much, which, as of this summer, tied Michigan's unemployment rate for the second highest in the Nation.

Something has to be done to help these hardworking men and women obtain jobs in the private sector and yet continue the support for Prison Industries which has worked so well, and

this bill represents the best thinking in that regard. That is why this legislation has been endorsed by the United Automobile Workers, the Teamsters, the Food and Commercial Workers, the United Brotherhood of Carpenters, the Machinists United, and many others. I think that we finally reached the kind of a compromise that takes both of these matters into consideration, how we deal with the problem of rising unemployment in the private sector, and with the great challenge to prepare those who are coming out of incarceration to gain valuable vocational skills and prepare themselves for returning to our society.

I urge your serious consideration of this matter.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. I yield 7 minutes to my colleague who has worked on this matter for many years, BOBBY SCOTT, a distinguished member of the Judiciary Committee from Virginia.

Mr. SCOTT of Virginia. Mr. Chairman, I rise in opposition to H.R. 2965, the Federal Prison Industries Competition in Contracting Act.

The Federal Prison Industries program was signed into law by President Roosevelt in 1934, in the midst of the Great Depression. This program was enacted as a way to protect the public by teaching prisoners real work habits and skills, so that when they are released, they will be better able to find and hold a job to support themselves and their families and be less likely to commit crimes in the future.

□ 1145

It is clear that the program has done just that. Follow-up studies covering as much as 16 years of data have shown that inmates who participate in Prison Industries are much more likely to be employed and much less likely to commit crimes than prisoners who do not participate in the program. While this certainly benefits offenders and their families, the real public policy benefit is that, as a result of this program, there are fewer victims of crime.

Contrary to the indication given by the proponents of this bill, the FPI program does not have a significant impact on business and labor. In its first year of operation, the percent of Federal contract procurement from FPI represented one-fourth of 1 percent of total annual Federal agency procurement dollars; and it is the same today, one-fourth of 1 percent, and this is just Federal procurement. It is obviously a minuscule portion of the total economy.

Critics, who were philosophically opposed to the program back in the 1930s and they are still opposed today, suggest that FPI has caused substantial losses in jobs for law-abiding citizens. The furniture and apparel industries are the two industries in which FPI has traditionally done most of its work.

When asked under oath, representatives of these industries testified that the FPI sales represent an insignificant and negligible portion of their industries. At our last hearing, the office furniture industry representative was not able to point to any loss to his industry caused by FPI.

I am the first to concede that there may be problems with FPI that need improvement, and we have made improvements through activities in Congress and the FPI board over the last 10 years. While it is understandable that every company that does not get a contract that FPI gets may be disappointed, just as they would be disappointed if another company got the same contract, the public safety and institutional safety and management benefits of this program have an insignificant impact on business and labor, and it is a public policy success story.

All able inmates in the Federal system are required, by law, to work. Non-FPI inmate jobs pay about \$0.12 to \$0.30 an hour, while FPI jobs pay about \$1 up to \$1.15 per hour. There are currently enough FPI jobs for only 18 percent of the work-eligible population. The other 82 percent of the prisoners work in non-FPI-related maintenance jobs.

In 2000, FPI jobs represented 25 percent of the prison jobs. In recent years, however, because we have passed restrictions like there are in this bill, there are fewer jobs and that has caused the elimination of over 2,000 jobs at the same time that the prison population has increased by 23,000 inmates, and it is still increasing. This bill will shrink FPI jobs even more.

We need to promote, not reduce, Federal Prison Industries jobs because the FPI program strongly supports education. To hold down an FPI job, an inmate must have completed high school, or be making steady progress towards obtaining a GED, and maintain a good record of behavior. This is not only true for those who hold FPI jobs but also those who are on the waiting list for a job, as well as those seeking to establish eligibility to be placed on the waiting list; and once in an FPI job, an inmate cannot earn more than \$0.40 an hour until he earns a GED. That is why FPI is not only a great job skills development and education development tool, but it is also a great management tool to help ensure prisons operate efficiently and safely for prison employees as well as inmates. I have never met a prison administrator who does not support this program.

Few offenders enter the program with marketable work skills. The vast majority do not even have basic work habits, such as showing up for work on time each day and working cooperatively and productively with others. Such work habits are required to maintain an FPI job. These are the same work habits required to be a good, productive, desirable worker anywhere, and that is why inmates who have FPI work experience have been found to be significantly more employable than those that do not.

I oppose this bill because it will obviously reduce job opportunities. The bill amends the current requirement in law for agencies to purchase goods from FPI and establishes a competitive bid process for agency purchases of goods and services from FPI, unless the Attorney General and the Bureau of Prisons certify that they cannot safely run the prisons without the particular contract award. It is unrealistic to expect that any official would publicly admit such a level of incompetence in order to obtain a contract, so it is unlikely that that provision will ever be used.

The bill claims to make an effort to replace mandatory source and service contracts by providing a transition preference program for agencies using FPI, by authorizing new options such as providing products or services to charitable and nonprofit organizations contingent on appropriations, by allowing FPI to provide services and products to Federal agencies on a non-competitive basis if they would otherwise be provided from offshore, and by authorizing work training programs for FPI to produce goods and services for private companies if the goods and services are not produced anywhere in the United States.

However, there is no basis for concluding that these authorities would replace the loss of jobs now available and legally sanctioned, and it is unlikely to suspect that the appropriations would be made or that the job training programs will be sufficient because most of the job training programs are 2 years at most. Obviously, people with longer sentences cannot benefit from that.

So before we decimate what the Department of Justice defines as the most important rehabilitation program, without a reliable replacement for those jobs, I believe we should direct a comprehensive study of its impact on labor and business and its beneficial impact on public safety before we do anything else.

In the face of all the good that this program does, I do not believe that we should throw the baby out with the bath water. Mr. Chairman, I would hope that we would defeat the bill and we maintain these jobs.

Mr. SENSENBRENNER. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan (Mr. HOEKSTRA), the author of the bill.

Mr. HOEKSTRA. Mr. Chairman, I would like to thank the chairman of the Judiciary Committee, as well as the ranking member of the committee, for the great work that we have been able to do together and the support that I have gotten from various individuals, as well as Mr. FRANK, Mr. COBLE, Mrs. MALONEY. We have put together a very effective bipartisan team to work on this issue.

My colleague from Wisconsin calls me the Johnny-come-lately to this issue, and he was working on this well before I did. I feel honored to have him call me the author of this bill, and I am

only the author of this bill because in all the other things that the chairman of Judiciary Committee is working on he has given me the opportunity to lead on this issue.

But I very much appreciate the work that we have done with Mr. CONYERS as well. It has been a very, very effective group.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. HOEKSTRA. I yield to the gentleman from the great State of Michigan.

Mr. CONYERS. Mr. Chairman, I want to thank Mr. HOEKSTRA personally for the great work that he has done, not just on this bill but earlier bills as well. This is not a subject on which you have just jumped onboard. I appreciate, across the years, our working together on it.

Mr. HOEKSTRA. Well, thank you very much, and it is because of this kind of cooperation.

My objective is still to get our other colleague over there, Mr. SCOTT, onboard. We have evolved this bill a long way to try to get Mr. SCOTT to be onboard in terms of the phase-in and phase-out of the provisions of this bill, the number of other work opportunities that we have put into this bill, the opportunities to work with not-for-profits and those types of things, but we are not quite there yet. Are we there?

Mr. SCOTT of Virginia. Mr. Chairman, will the gentleman yield?

Mr. HOEKSTRA. I yield to the gentleman from Virginia.

Mr. SCOTT of Virginia. Mr. Chairman, I thank the gentleman for yielding.

I would tell my friend from Michigan that you would get my support if you just guaranteed that the jobs would be there. We need people working on these jobs. If they are working on jobs, there will be less crime. So anything that will guarantee the jobs I can support.

Mr. HOEKSTRA. Reclaiming my time, I think the bill allows the Attorney General and gives the Attorney General the responsibility to make sure that the Attorney General can take the actions necessary to keep prisons safe and to allow workers or prisoners to get the skills that they need.

We have put together a very, very good coalition, the business groups, the Teamsters, the organized labor, UAW, UNITE-HERE, Machinists, Carpenters and a lot of other folks.

Mr. CONYERS. Mr. Chairman, if the gentleman would yield to just allow me this, because I think what the gentleman from Virginia raised is a very important point, somebody better guarantee me the jobs, too, because that is what this is all about. We are not just writing language to go into the law books. We want some action, and I do not know who gives out guarantees around here, but I will be the first one in line to get it. I am glad that that is your position as well.

Mr. HOEKSTRA. Mr. Chairman, I will reclaim my time. I am sure Mr. SCOTT is going to have a little bit more time.

If I could complete my statement, I recognize the difference, but I would hope that folks on both sides would recognize the tremendous effort that we have put in bringing together a lot of different folks to address the issues, both from the workers and the industries that may be affected, but also the individuals in the prisons.

This effort is also supported by Prison Fellowship, that has a very great passion for making sure that people who have found their way into our prison systems, that when they come out, that they have developed the skills that have enabled them to integrate effectively back into society.

I think, with the support that we have developed, it is a clear indication that this is a well-balanced approach between those competing interests.

I will close with my comments. It is just good to be able to stand here on this bill, to be able to work with the chairman and to be able to work across the aisle and to take a look at the consensus that we have developed on this bill. It is how the House should work.

I encourage my colleagues to support this bill that has come through the Judiciary Committee. Let us move this forward and let us work together to get something done in the Senate as well.

Mr. Chairman, H.R. 1965, the Hoekstra-Frank-Maloney-Sensenbrenner-Conyers-Coble Federal Prison Industries Competition in Contracting Act of 2006 will bring fundamental, comprehensive, and balanced reform to Federal Prison Industries, Inc. (FPI).

Because of FPI's status as a mandatory source, non-inmate workers and the firms that employ them are completely precluded from having the opportunity to even bid on \$800 million in Federal contracting opportunities. Non-inmate workers and the firm's that employ them are denied the job opportunities funded by their tax dollars.

That is why the bill is supported by a broad Coalition of business groups, led by the U.S. Chamber of Commerce NFIB, and NAM. That is why the bill is concurrently supported by many unions in organized labor including the Teamsters, UAW, UNITE-HERE, Machinists, Carpenters, and UFCW.

Because of FPI's mandatory source status, FPI's captive Federal agency customers cannot get the best value for the taxpayer dollars entrusted to their care. That is why H.R. 1829 enjoys the support of federal managers represented by the Federal Managers Association.

The justification for FPI's mandatory source status is that inmate work opportunities helps combat idleness and better prepares inmates for a successful return to society. Neither of those cited benefits are linked to the corrosive manner in which FPI is currently permitted to operate in the Federal market.

Frequently cited is the statistic that inmates participating in prison industry program are 24% less likely to return to prison. That finding is drawn from the report on a multi-year study by the Federal Bureau of Prisons, the Post-Release Employment Project (PREP). What

the proponents of the status quo forget to mention is that the same PREP study demonstrated that inmates participating in remedial and vocational educational programs were 33 percent less likely to return to prison. Such programs better prepare inmates for a successful return to society, but FPI does not use one dime of its gross profits, which were \$117 million in Fiscal Year 2004, to fund such educational programs. No, those gross profits are devoted exclusively to FPI's expansion.

Thanks to the work of my friend from Michigan (Mr. CONYERS) and my friend from Massachusetts (Mr. FRANK) the bill expands the opportunities for Federal inmates to participate in remedial and modern hands-on vocational training programs. Those that are more likely to reduce recidivism.

Similarly, the H.R. 2965 provides alternative work opportunities for inmate by authorizing them to do work for non-profit entities and units of local governments and special purpose districts, like school districts.

During the Committee's consideration of the bill a Work-based Employment Preparation Program for Federal inmates. This program will provide Federal inmates with

FPI's current model's cause real problems. H.R. 2965 provides the fundamental, comprehensive, and balanced solutions.

I urge my colleagues to support our bill.

Mr. CONYERS. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Illinois (Mr. DAVIS), my friend and colleague, who has worked on this area for a long time.

Mr. DAVIS of Illinois. Mr. Chairman, I appreciate the work that the Judiciary Committee has spent dealing with this very difficult and complex issue, and I want to thank the gentleman from Michigan for yielding.

All of us know that one of the biggest problems facing inmates when they get out of prison is the ability to get a job. The best way that you can convince a potential employer that you understand the world of work is that you have been working. Therefore, this program which provides inmates an opportunity to work needs all of the protection that it can possibly get.

I agree that we need to change some things about it. I would agree that we need to find a way to pay the inmates more, especially as they get close to release time so that maybe when they get out, they have got a little bit of money in their pocket that they can get started with back in civilian life.

But to do anything that would reduce the possibility of individuals working while they are incarcerated goes against the grain. It does not benefit our correctional system. It does not benefit our correctional institutions.

I spend time in the Federal prisons, and every administrator that I have come into contact with supports this program and wants to see it expanded, not reduced or possibly eliminated.

I again thank the gentleman from Michigan.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina (Mr. COBLE).

Mr. COBLE. Mr. Chairman, I thank the chairman for yielding.

Mr. Chairman, this body has deliberated the role of Federal Prison Industries for several years. In 2003, the House approved a version of the vote by a decisive vote, and while that bill was not enacted, the House Judiciary Committee has continued to deliberate on reforming FPI.

□ 1200

I want to applaud the diligence of Chairman SENSENBRENNER and Chairman HOEKSTRA, the distinguished gentleman from Michigan (Mr. CONYERS), the ranking member of the full committee, and even though my good friend from Tidewater, Virginia, is misguided on this bill, we continue to be good friends. We have all worked together, and I think it is a good bill.

I supported FPI reform in 2003, Mr. Chairman. While I still support this reform today, I am pleased with the changes in the bill to ensure that FPI will not be discouraged by its implementation of the bill before us. I have always argued that the sole source rule was really not justified and worked inevitably to the detriment of the private sector.

Office furniture is an enormous business, as we all know. H.R. 2965 will balance the playing field in the market for supply furniture to the Federal Government. Furniture manufacturing is an economic engine in the Sixth District of North Carolina, which I represent, and would welcome the opportunity to compete with FPI.

Mr. Chairman, recidivism in our Federal penitentiaries is of grave concern. H.R. 2965, it appears to me, should not be construed as a movement away from inmate training. And, finally, the Second Chance Act, which Mr. SCOTT and I have nurtured through the House Judiciary Committee, is another example of this new trend regarding incarceration and, of course, that bill will be examined at a subsequent date.

Mr. CONYERS. Mr. Chairman, I would like at this time to recognize the gentlewoman from New York (Mrs. MALONEY) for 2 minutes.

(Mrs. MALONEY asked and was given permission to revise and extend her remarks.)

Mrs. MALONEY. Mr. Chairman, I thank the gentleman for yielding and for leading so strongly on this important issue, and I rise in strong support of H.R. 2965, of which I have been a lead sponsor in many prior Congresses.

This bill will bring comprehensive, fundamental, and balanced reform to the Federal Prison Industries, which is long overdue. This bill before us reflects improvements upon the bill in the 108th Congress, which passed 350-65.

At the core of the bill is providing access to the Federal contract opportunities, now reserved for FPI because of its status as a mandatory source of supply for the various Federal agencies. In fiscal year 2004, that amounted to \$802 million in business opportunities upon which private sector firms had no opportunity to bid. It will also

protect jobs of American workers. FPI will no longer be able to come in and arbitrarily announce that they are taking their work, their contracts away, which happened to my constituents.

Like many in this Chamber, I came to this issue from a problem created by FPI. FPI was about to take the contract that Glamour Glove, a manufacturer in my district, had won from the Department of Defense on a competitive basis. Glamour Glove, now called Glove Street, was the last union shop glove manufacturer in New York, and its proud members are members of UNITE.

Working with my friend from Michigan, Mr. HOEKSTRA, and the leadership of UNITE, we were able to persuade the FPI board to change its plans. I know that my constituents were wondering why they had to seek the mercy of six people in Washington and the FPI board of directors to maintain their jobs.

Out of that experience, Mr. HOEKSTRA and I began working together to put forward an opportunity for American workers to compete for these jobs. Each year, the bill has been modified to provide alternative rehab work opportunities for Federal inmates, and I congratulate Mr. FRANK for his leadership and Mr. CONYERS on the amendments they have added to improve the bill.

From the outset of our effort, Mr. FRANK led our effort to find alternative-inmate work opportunities for Federal inmates that would not provide unfair competition with non-inmate workers. First, by doing public service work for non-profit organizations that serve the poor. This first step has been broadened in each succeeding year.

In the last Congress, we granted authority for Federal inmates to provide work in support of units of local government and special purpose districts, such as school districts. Protections were included against any displacement of non-inmate workers, either public employees or private sector.

During the Committee's consideration H.R. 2965, they added a Work-based Employment Preparation Program for Federal inmates. This program will provide Federal inmates with access to work-based training under the tutelage of real-world employers. Again, the new provision has clear and enforceable protections against unfair competition with non-inmate workers and the firms that employ them.

When H.R. 2965 is enacted into law, working men and women, who perform contracts for the Federal Government will no longer have to be concerned that FPI will simply be able to take their work opportunities. They will have a chance to bid on the Federal contracts that are funded by their tax dollars.

I look forward to this debate. The proponents are on the right side and have the strong support of the business community and organized labor, as well as federal managers, represented by the Federal Managers Association.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to my friend and brother, the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Chairman, I appreciate Mr. CONYERS giving

me the opportunity to respond to my friend from North Carolina, who suggested that I was misguided by opposing the bill. Perhaps I am misguided, because the bill increases crime and I am trying to reduce crime.

We know that increasing jobs will reduce crime. This bill, we know, reduces jobs. The goal of FPI has been traditionally for 25 percent of the jobs to be FPI jobs. As a result of the initiatives in this bill, many of which were enacted in 2001, the percentage of jobs has gone from 25 to 18, 2,000 fewer jobs. And if we had maintained the 25 percent, there would be 9,000 more people working in FPI jobs, with a much lower chance of getting into trouble when they are released.

This reduction in jobs will increase crime. Maybe opposing an increase in crime is misguided, but I think we ought to reguide ourselves and support those initiatives, which will actually reduce crime, not increase crime, as this bill does.

Mr. CONYERS. Mr. Chairman, I yield myself 1 minute to point out that this bill does not increase crime because we have got a vocational educational training program for inmates that will prepare them not only in vocational skills but prepare them as a whole person.

So to say that we are increasing crime because we are phasing out this Federal Prison Industries program is not exactly accurate. Besides, there is a not-for-profit section that we are going to ramp up. Local governments, school districts, and religious organizations will all be able to benefit under this new provision to create more jobs.

And so I just want to guarantee everybody, and particularly my friend from Virginia, that if this doesn't create more jobs, then I want to change the law myself. But to predict that this is what we are doing is not exactly accurate.

Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the ranking member, and I speak strongly in support of this bill. I have not yet had anyone explain to me why it is our strong policy to ban the products of prison labor that come over in trade, but we then encourage them to compete with American workers if it is domestic prison labor.

I agree it is a good idea for inmates to have work opportunities, but I am hoping that marketing is not one of those things in which prisoners engage. That is, it is the actual process of making the product that has its rehabilitative effect. And as the gentleman from Michigan just mentioned, it is the intention of many of us to increase the extent to which prisoners could be used to make products that could be distributed to various entities in our society in a way that wouldn't be competitive with the market.

But I do not understand how you tell low-wage workers, because the level at

which the prison products exist is at the low-wage level, how do we tell low-wage workers they are going to lose their jobs because of prisoners? How do you tell people who have been hard-working people trying to support themselves and their families that prisoners are taking their jobs because of the inherent subsidy that is involved?

Now, the way to resolve that, it seems to me, is to leave the market, to the extent that we can, to people who are in the market, in the private sector; and try, as the gentleman from Michigan said, as we try in this legislation, to increase the extent to which prisoners can be employed and learn skills and make products that will be distributed to the nonmarket segment. And there is no loss there. Again, the marketing is not part of the prison experience and shouldn't be.

So it is entirely possible to have prisoners learning skills, improving their skills by producing things that can then be distributed to a nonmarket segment. But the fundamental principle that we should not allow prison labor to take jobs away from hard-working people, particularly at the low-wage level, is at the core of this bill.

Mr. CONYERS. Mr. Chairman, I would yield 1 minute more, this is very unusual, but I will yield 1 minute more to Mr. SCOTT.

Mr. SCOTT of Virginia. Mr. Chairman, I thank the gentleman for yielding, because, as I indicated, as a result of the initiatives that are in this bill, we have already lost thousands of jobs. And if we had had the law as it was in 2000, we would have about 9,000 more people working.

The gentleman from Massachusetts has said there are other alternatives. If we were guaranteed funding for that, I would support it. The problem is that the FPI pays for itself, so it doesn't need appropriation. If we can guarantee the funding, there wouldn't be any debate on this. The job training also may not have funding. So we don't know that that is going to take place. So there is no guarantee.

The problem with this approach is that there is no guarantee for funding. The FPI program pays for itself, and has been paying for itself for over 70 years. It works well. We know it works, and the replacements are just speculative.

Mr. CONYERS. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. My problem with my friend from Virginia's argument, well, there are two; first of all, if there are 9,000 fewer jobs in Prison Industries, that means there are 9,000 more jobs in the private sector.

So the second point is that he concedes that if we funded this it wouldn't be a problem. Well, rather than put the burden on lower-wage working people in the garment industry, the furniture industry, et cetera, then let us work to get the funding. It is not a huge

amount. But there is, to some extent, a replacement of prison jobs and private sector jobs.

Mr. SCOTT of Virginia. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Virginia.

Mr. SCOTT of Virginia. First of all, we will work together on the funding, no question about that. Furthermore, there is not a one-to-one replacement. You have about four people in prison working on what would otherwise be one job.

Mr. FRANK of Massachusetts. Well, then I would say this. Then that further reinforces the point. Because what you are then saying is the underpayment, the subsidy element is such that you are still losing private sector jobs to prison jobs.

And I would say to the gentleman, let us end on a note of approval. Yes, I look forward to working with the gentleman for better funding, and if things go well in November it will be easier than it has been.

Mr. SENSENBRENNER. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. Mr. Chairman, I thank the chairman of the committee for yielding time.

I rise in opposition to this bill. Now, I represent two prisons in my district, and grandma used to say that idle hands are the devil's workshop. We have to find ways to keep these people busy; but, more importantly, we have to give them real job skills.

Now, I understand that in some cases this may be taking jobs away from the private sector, but that is very rare, Members. Mostly what we are doing in those prisons today are jobs that either aren't done in the United States much any more, or they are jobs that nobody wants. And we need to keep these guys busy. We need to give them some job skills. And I am afraid we are going to throw this baby out with the bath water today.

Now, it may well be that we have to reform the Federal Prison Industries a bit. And I hear the talk about, well, we can find \$75 million for job training programs. Maybe that is true. But in the middle are these folks who are working in the Federal Prison Industries in my district who are earning a little bit of money, who are making a difference, and are providing products that the United States military needs.

Mr. Chairman, I rise to speak in opposition to this legislation. I represent a number of employees and inmates at the Federal Correctional Institution in Waseca, Minnesota, and they have a vested interest in this matter.

Federal Prison Industries employs approximately 200 inmates in Waseca. The jobs they have give these inmates real-life skills that offer opportunity for rehabilitation and a chance at success when they leave prison. The program is carefully overseen by trained prison employees.

Mr. Chairman, changes might be necessary to improve the FPI program, but I am not convinced that the legislation before us accomplishes that. H.R. 2965 would authorize a \$75

million work-based training program to replace FPI. The likelihood that Congress will not appropriate these dollars threatens to make a bad situation worse. Stresses on our federal budget could lead to a worse-case scenario of having no education or job training program at all for these inmates.

Many products made by FPI are used by our armed forces, and very few of these products are made by U.S. companies who make these products. In fact, the private sector companies who procure them already make their purchases from foreign manufacturers, not U.S. companies.

Mr. Chairman, the existing FPI program works well. This is a classic case of Congress trying to fix something that is not broken. I urge my colleagues to oppose this legislation and to work to improve the FPI program for inmates and small businesses alike.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, it is pretty hard for somebody in the private sector that pays taxes on their manufacturing equipment, that pays property taxes on the building that is used to house the manufacturing equipment, that pays their employees a decent wage, that takes out Social Security and State and Federal income taxes and, hopefully, provides benefits, including health care benefits, to compete against those who are working in the prison where the taxpayers pay for the medical benefits, the taxpayers pay for the room and board, and the land and the prison is completely tax exempt.

Now, the gentleman from Minnesota says that what FPI provides is bought by the Department of Defense. What this bill does is to provide the same reforms that were provided a few years earlier with FPI contracting with the Department of Defense. The gentleman from Minnesota says it has worked with the Department of Defense. What we want to do is to have it work with every other Federal agency as successfully as it has done with the Department of Defense.

Mr. EHLERS. Mr. Chairman, I rise in strong support of H.R. 2965. This bill restores a modicum of sense to our current government procurement system.

Let me highlight two important aspects of this bill. One, the bill helps federal agencies manage taxpayer dollars more responsibly. For the first time, private-sector firms will be free to bid on federal contracting opportunities currently reserved for Federal Prison Industries. To assure that a buying agency is getting adequate value for the taxpayer dollars being spent on clothing, textiles, electronics, office furniture, equipment, services, or other procurement items, the buying agency—rather than FPI—would be empowered to determine whether the offered product and delivery schedule meet the buying agency's needs. Similarly, the buying agency would be empowered to determine whether FPI's offered price meets the procurement standard for a "fair and reasonable price."

Two, the bill is eminently more fair to contractors. Let me give you one example of the egregiously unfair practices under the current system. Back in 2003, the FAA was seeking to procure office furniture for its headquarters

building. Through the General Services Administration, it solicited bids for the contract. On April 16, 2003, Steelcase (which is a major office furniture manufacturer based in my district) submitted its final bid for this contract to the GSA. A week later, Steelcase was informed by GSA that they were likely the winning bid on the contract. On May 7, they were informed by GSA that FPI had copied the proposal word for word and exactly matched Steelcase's bid. FPI asserted its sole source authority and decided not to grant a waiver for this contract. This was completely unfair as Steelcase had spent over 1,000 man hours and hundreds of thousands of dollars preparing the design, construction schedule, labor and material costs and other elements of this bid, only to have FPI duplicate the offer and undercut them. Thankfully, FPI eventually relented after considerable political pressure was brought to bear by myself and others.

We cannot continue to fight these kinds of situations on a case-by-case basis. That is why I support comprehensive FPI reform. If FPI can compete on quality and price, then great! Let me note that the bill does not alter a broad array of other advantages that FPI enjoys when it competes with private-sector firms, including extremely low wage rates, low overhead costs and no tax liability. But the current mandatory source privilege is anathema to principles of the free market and open enterprise.

I commend my colleague, Mr. HOEKSTRA, for his steadfast dedication to addressing this problem and for working with all the interested stakeholders. I urge everyone to support this bill.

Mr. WOLF. Mr. Chairman, I rise in opposition to the bill. Before I make some comments, let me say I have great respect for the gentleman from Michigan (Mr. HOEKSTRA). He is a good person. But I do not believe this approach is the way to go.

I appreciate the hard work of Mr. HOEKSTRA and his staff in trying to develop a bill that addresses concerns raised by myself and others, including the Justice Department. And while I appreciate his genuine efforts to address the issue of providing additional opportunities for inmates, I remain concerned that the alternatives provided in this proposal will not be enough to replace the mandatory source authority currently relied upon by Federal Prison Industries (FPI).

H.R. 2965 would decimate the FPI program by eliminating the mandatory source preference without an adequate replacement. Mandatory source preferences account for the majority of inmate jobs in the program.

I also want to acknowledge Mr. HOEKSTRA's efforts to work with the Justice Department to craft a workable alternative to the current mandatory source authority that is responsible for many of jobs currently available through FPI. While there have been a number of changes from the proposal that was considered during the last Congress, the Department of Justice has stated that they cannot support this bill in the current form.

The Department of Justice calls FPI "the Department's most important correctional management tool." DOJ has a fiduciary relationship in running these prisons and I certainly wish they had been stronger in articulating their concerns. However, the fact remains that the bill before us does not have their support.

Winston Churchill said one of the best tests of whether we are truly a civilized people is the temper, the mood of the public in regard to the treatment of crime and criminals.

I like to think of myself as a compassionate conservative. I've had the chance to work with prisoners. Before I was elected, I was involved in a program at Lorton Prison called "Man to Man" where we would meet with and counsel the inmates. Knowing what this bill could do in terms of prison work opportunities, I think this bill should be defeated.

You cannot put a man in prison for years and expect him to be rehabilitated without work. The Bible says, "Remember the prisoner as though in prison with them."

Currently, FPI is a self-supporting government program that provides job skills opportunities to federal Bureau of Prisons (BOP) inmates by producing products and services for federal agencies. The FPI prison inmate work program fosters BOP prison safety by helping to keep thousands of prison inmates productively occupied in labor-intensive work activities and furthers BOP prisoner rehabilitation by providing prison inmates with opportunities to develop job skills that will allow them to re-enter our communities as productive, law-abiding citizens.

This bill would make it difficult to operate a prison. Inmates without work who are idle are prisoners that are going to later come back and commit a crime. Prisoners that participate in the FPI program have a 24 percent lower recidivism rate than prisoners who are not in the program.

This bill also has major budget impacts. To those on my side of the aisle who talk about balancing the budget, the cost of this bill over 5 years will be \$500 million. In an era of limited discretionary funding, I have to ask: does it make sense to replace the self-sustaining FPI program with an alternative work program that would cost hundreds of millions a year, without considering any additional staffing needs that would arise from a loss of FPI jobs?

The FPI program provides those incarcerated with a unique opportunity to learn discipline, responsibility, and job skills needed to re-enter society. We should be supporting these prisoners as they serve their time and seek to make the transition back into society, not undercutting one of the most important programs offered by the prison system to help them do so. I am very concerned that the bill before us does not set up an alternative system that can ensure FPI will be able to continue offering inmate work and training opportunities in the future.

In the last four years, the percentage of inmates able to participate in FPI has plummeted from 25 percent to 17 percent, with the BOP estimating a continued decline if this legislation passes. That is the key. There is no alternative system for ensuring there will continue to be jobs if these reforms are implemented. That would be tragic.

If this bill is not amended, I believe, and I may be wrong, that this bill, as surely as the night follows the day, will make it very difficult to operate prisons. With the opportunity to work comes the chance to restore dignity. Later, I am offering a commonsense amendment with my colleagues Messrs. LUNGREN, CHABOT and SCOTT that would simply postpone the mandatory source phase-out for one year if the FPI prisoner enrollment falls below the current level of 17 percent.



In a time of low national unemployment, it is hard to believe that we are about to make it harder for incarcerated Americans to learn discipline, responsibility, and job skills that working develops.

I urge my colleagues to vote against this underlying bill and for the Lungren-Chabot-Wolf-Scott amendment.

Mr. MANZULLO. Mr. Chairman, Federal Prison Industries takes jobs away from law-abiding citizens of this nation. Many people are concerned about their future job security or where their next job will come from. If it is within one of the more than 250 industries FPI already is in, watch out!

We all understand the need to control a potentially violent prison population. This bill points to a better way to train prisoners for real jobs in the outside world than to have them unfairly compete against small businesses for the precious few contracts with the Federal Government. It will also allow FPI to manufacture products that are no longer made in America and to also perform work in support of non-profits such as Habitat for Humanity.

The jobs of law-abiding citizens—the forgotten Americans—who get up every day, dress their kids for school, and set off for a long hard day of work should not be sacrificed for convicted felons. The unintended and indirect message from FPI to the forgotten American is that if you want a job, commit a crime. That's not the American way! Some of my small business constituents from northern Illinois have had difficulty in selling to the Federal Government because of the unfair competition from FPI.

I support H.R. 2965 because it will simply require that FPI compete like every other business for contracts with the Federal Government. FPI already has many advantages off the bat, such as a captive below minimum wage work force and no health care, worker's compensation or other benefits to pay for. Even with these advantages, small businesses still believe they can beat FPI because various government agencies have long complained about the quality and timeliness of delivery of products from FPI.

Mr. Chairman, let's allow small businesses to compete against FPI. We should convey the message to the forgotten American that if you play by the rules, you have a fair shot at all the opportunities this society has to offer. Convicted felons should not receive better treatment than law-abiding citizens. I urge a "yes" vote on FPI and a "no" vote on any amendment that weakens this well-thought out bill.

Mr. HOLT. Mr. Chairman, can you, or another member, tell me why we are considering this legislation? Why when we have the largest prison population in the world, why when we have one of the worst recidivism rates in the world, why when we have enormous expense from crime and imprisonment, and why when America's historic and ethical attitude towards crime is based predominantly on a redemptive view of human nature, why are we doing this?

Ms. WATERS. Mr. Chairman, I rise in support of H.R. 2965, the Federal Prison Industries Competition in Contracting Act of 2005.

I thank my colleagues in the Committee on the Judiciary for their overwhelming support of the "sense of Congress" language I offered during Full Committee markup that would clar-

ify the work-based program newly established in Section 17 of this legislation. As previously drafted, the "heart" of the wage provision of the work-based program was only an alternative to a scenario where the Secretary of Labor—at her discretion—would promulgate an inmate training wage. If the Secretary fails to do so within 180 days, she would be able to prescribe an interim training wage that is no less than 50% of the prevailing federal minimum wage—a provision that, in and of itself, is conditional.

I was elected to Congress in 1991, and I have continually stressed the importance of providing individuals, who have paid their debt to society, a realistic opportunity to transition from federal prison back into the community. The truth is that the current system, sets them up for failure. By turning them out on the street without a dime in their pocket many of the individuals who are fortunate enough to make it out of the system will start "in the red." Already faced with the pressing need to provide for food, shelter, and healthcare, with no money in their pockets they are left with few alternatives to pay for baby formula, HIV medication, a hot meal for one night, or even a place to stay.

For these reasons, during the 108th Congress, my language was accepted to establish a \$2.50 minimum wage "floor" to eradicate the severe economic disparities created by the existing wage scale, which spans from \$0.23 to a mere \$1.15 per hour for inmates whose term of imprisonment will expire within 2 years. I thank my colleagues for retaining this important language, because it takes a good first step toward providing a realistic and livable economic base for individuals reentering the community from the federal system.

By and large, the individuals for whom I make my most passionate appeals are those who deserve a second chance—those who did not commit heinous and violent crimes and who have truly paid their debt to society. In the real world, individuals who reenter the community from incarceration already have families who depend upon them and they have no job waiting for them. To further exacerbate this situation, many employers will outright reject their application for a job once they discover that an applicant has a criminal record.

Nevertheless, the work-based program established in this bill makes a good effort to help these individuals by giving them a chance to earn an apprenticeship certificate to substantiate their work experience. In fact, the spirit of this program is consistent with the "Prisoner Re-entry Initiative" proposed by President Bush in his State of the Union Address when he called for a four-year, \$300 million initiative to—and I quote—"reduce recidivism and the societal costs of reincarceration by helping inmates find work when they return to their communities."

Therefore, I support this legislation and ask that my colleagues vote yes on its final passage.

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Mr. SENSENBRENNER. Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN (Mr. GILLMOR). All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 2965

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) *SHORT TITLE.*—This Act may be cited as the "Federal Prison Industries Competition in Contracting Act of 2006".

(b) *TABLE OF CONTENTS.*—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.*
- Sec. 2. Governmentwide procurement policy relating to purchases from Federal Prison Industries.*
- Sec. 3. Public participation regarding expansion proposals by Federal Prison Industries.*
- Sec. 4. Transitional mandatory source authority.*
- Sec. 5. Authority to perform as a Federal subcontractor.*
- Sec. 6. Inmate wages and deductions.*
- Sec. 7. Clarifying amendment relating to services.*
- Sec. 8. Conforming amendment.*
- Sec. 9. Rules of construction relating to chapter 307.*
- Sec. 10. Providing additional rehabilitative opportunities for inmates.*
- Sec. 11. Re-entry employment preparation through work-based training and apprenticeship.*
- Sec. 12. Restructuring the Board of Directors.*
- Sec. 13. Providing additional management flexibility to Federal Prison Industries operations.*
- Sec. 14. Transitional personnel management authority.*
- Sec. 15. Federal Prison Industries report to Congress.*
- Sec. 16. Definitions.*
- Sec. 17. Implementing regulations and procedures.*
- Sec. 18. Rules of construction.*
- Sec. 19. Effective date and applicability.*
- Sec. 20. Clerical amendments.*

**SEC. 2. GOVERNMENTWIDE PROCUREMENT POLICY RELATING TO PURCHASES FROM FEDERAL PRISON INDUSTRIES.**

Section 4124 of title 18, United States Code, is amended to read as follows:

**"§4124. Governmentwide procurement policy relating to purchases from Federal Prison Industries**

*"(a) IN GENERAL.*—Purchases from Federal Prison Industries, Incorporated, a wholly owned Government corporation, as referred to in section 9101(3)(E) of title 31, may be made by a Federal department or agency only in accordance with this section.

*"(b) SOLICITATION AND EVALUATION OF OFFERS AND CONTRACT AWARDS.*—(1)(A) If a procurement activity of a Federal department or agency has a requirement for a specific product or service that is authorized to be offered for sale by Federal Prison Industries, in accordance with section 4122 of this title, and is listed in the catalog referred to in subsection (g), the procurement activity shall solicit an offer from Federal Prison Industries, if the purchase is expected to be in excess of the micro-purchase threshold (as defined by section 32(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 428(f))).

*"(B) The requirements of subparagraph (A) shall also apply to a procurement that a Federal*

department or agency intends to meet by placing an order against a contract maintained by the General Services Administration under the Multiple Award Schedule Contracts Program.

“(C) Federal Prison Industries, upon its request, shall be listed on any Schedule, referred to in subparagraph (B), as offering products or services which Federal Prison Industries believes to be comparable to those products and services being offered by commercial contractors through the Multiple Award Schedule Contracts Program.

“(2) A contract award for such product or service shall be made using competitive procedures in accordance with the applicable evaluation factors, unless a determination is made by the Attorney General pursuant to paragraph (3) or an award using other than competitive procedures is authorized pursuant to paragraph (7).

“(3) The procurement activity shall negotiate with Federal Prison Industries on a noncompetitive basis for the award of a contract if the Attorney General determines that—

“(A) Federal Prison Industries cannot reasonably expect fair consideration to receive the contract award on a competitive basis; and

“(B) the contract award is necessary to maintain work opportunities otherwise unavailable at the penal or correctional facility at which the contract is to be performed to prevent circumstances that could reasonably be expected to significantly endanger the safe and effective administration of such facility.

“(4) Except in the case of an award to be made pursuant to paragraph (3), a contract award shall be made with Federal Prison Industries only if the contracting officer for the procurement activity determines that—

“(A) the specific product or service to be furnished will meet the requirements of the procurement activity (including any applicable prequalification requirements and all specified commercial or governmental standards pertaining to quality, testing, safety, serviceability, and warranties);

“(B) timely performance of the contract can be reasonably expected; and

“(C) the contract price does not exceed a current market price.

“(5) A determination by the Attorney General pursuant to paragraph (3) shall be—

“(A) supported by specific findings by the warden of the penal or correctional institution at which a Federal Prison Industries workshop is scheduled to perform the contract;

“(B) supported by specific findings by Federal Prison Industries regarding why it does not expect to win the contract on a competitive basis; and

“(C) made and reported in the same manner as a determination made pursuant to section 303(c)(7) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(7)).

“(6) If the Attorney General has not made the determination described in paragraph (3) within 30 days after Federal Prison Industries has been informed of a contracting opportunity by a procurement activity, the procurement activity may proceed to conduct a procurement for the product or service in accordance with the procedures generally applicable to such procurements by the procurement activity.

“(7) A contract award may be made to Federal Prison Industries using other than competitive procedures if such product or service is only available from Federal Prison Industries and the contract may be awarded under the authority of section 2304(c)(1) of title 10 or section 303(c) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(1)), as may be applicable, and pursuant to the justification and approval requirements relating to such noncompetitive procurements specified by law and the Governmentwide Federal Acquisition Regulation.

“(8) A contract award may be made to Federal Prison Industries using other than competitive procedures by the Federal Bureau of Prisons.

“(9) A solicitation for a contract shall first be made to Federal Prison Industries using other than competitive procedures if the product or service to be acquired would otherwise be furnished by a contractor performing the work outside of the United States.

“(c) OFFERS FROM FEDERAL PRISON INDUSTRIES.—(1) A timely offer received from Federal Prison Industries to furnish a product or service to a Federal department or agency shall be considered for award without limitation as to the dollar value of the proposed purchase, unless the contract opportunity has been reserved for competition exclusively among small business concerns pursuant to section 15(a) of the Small Business Act (15 U.S.C. 644(a)) and its implementing regulations.

“(2)(A) Any offer made by Federal Prison Industries to furnish a product or service may exclude from the offer the price of the following:

“(i) The costs related to security of the facilities at which the contract will be performed.

“(ii) The costs of educating and training the prison work force performing the contract.

“(iii) Excess capital costs of machinery and excess inventories used within a prison environment that are the result of the unique environment of prison life.

“(iv) Other costs of performing the contract resulting from the unique environment of prison facilities.

“(d) PERFORMANCE BY FEDERAL PRISON INDUSTRIES.—Federal Prison Industries shall perform its contractual obligations under a contract awarded by a Federal department or agency to the same extent as any other contractor.

“(e) FINALITY OF CONTRACTING OFFICER'S DECISION.—(1) A decision by a contracting officer regarding the award of a contract to Federal Prison Industries or relating to the performance of such contract shall be final, unless reversed on appeal pursuant to paragraph (2) or (3).

“(2)(A) The Chief Operating Officer of Federal Prison Industries may protest a decision by a contracting officer not to award a contract to Federal Prison Industries pursuant to subsection (b)(4), in accordance with section 33.103, (Protests to the agency) of the Federal Acquisition Regulation (48 C.F.R. part 33.103).

“(B) In the event of an adverse decision of a protest filed pursuant to subparagraph (A), the Assistant Attorney General for Administration may request a reconsideration of such adverse decision by the head of the Federal agency or department, which shall be considered de novo and the decision issued by such agency head on a non-delegable basis. Such decision upon reconsideration by the agency head shall be final.

“(3) A dispute between Federal Prison Industries and a procurement activity regarding performance of a contract shall be subject to—

“(A) alternative means of dispute resolution pursuant to subchapter IV of chapter 5 of title 5; or

“(B) final resolution by the board of contract appeals having jurisdiction over the procurement activity's contract performance disputes pursuant to the Contract Disputes Act of 1978 (41 U.S.C. 601 et seq.).

“(f) REPORTING OF PURCHASES.—Each Federal department or agency shall report purchases from Federal Prison Industries to the Federal Procurement Data System (as referred to in section 6(d)(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(4))) in the same manner as it reports to such System any acquisition in an amount in excess of the simplified acquisition threshold (as defined by section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))).

“(g) CATALOG OF PRODUCTS.—Federal Prison Industries shall publish and maintain a catalog of all specific products and services that it is authorized to offer for sale. Such catalog shall be periodically revised as products and services are added or deleted by its board of directors (in accordance with section 4122(b) of this title).

“(h) COMPLIANCE WITH STANDARDS.—Federal Prison Industries shall be subject to Federal oc-

cupational, health, and safety standards with respect to the operation of its industrial operations.”.

### SEC. 3. PUBLIC PARTICIPATION REGARDING EXPANSION PROPOSALS BY FEDERAL PRISON INDUSTRIES.

Section 4122(b) of title 18, United States Code, is amended—

(1) by redesignating paragraph (6) as paragraph (13); and

(2) by striking paragraphs (4) and (5) and inserting the following new paragraphs:

“(4)(A) Federal Prison Industries is authorized to offer a new specific product or furnish a new specific service in response to a competitive solicitation or other purchase request issued by a Federal department or agency. No subsequent offering of such product or service may be made by Federal Prison Industries until the board of directors has approved the offering for sale of such new specific product or new specific service, in conformance with the requirements of paragraphs (5) through (9).

“(B) Federal Prison Industries may produce a product or furnish a service in excess of the authorized level of production for such product or service, in response to an order placed pursuant to an existing contract with a Federal department or agency, if the agency's need for the product or service is of such an urgency that it would justify the use of procedures other than competitive procedures pursuant to section 2304(c)(2) of title 10 or section 303(c)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(2)), as may be applicable.

“(5) A decision to authorize Federal Prison Industries to offer a new specific product or specific service or to expand the production of an existing product or service for sale to the Federal Government shall be made by its board of directors in conformance with the requirements of subsections (b), (c), (d), and (e) of section 553 of title 5, and this chapter.

“(6)(A) Whenever Federal Prison Industries proposes to offer for sale a new specific product or specific service or to expand production of a currently authorized product or service, the Chief Operating Officer of Federal Prison Industries shall submit an appropriate proposal to the board of directors and obtain the board's approval before initiating any such expansion. The proposal submitted to the board shall include a detailed analysis of the probable impact of the proposed expansion of sales within the Federal market by Federal Prison Industries on private sector firms and their non-inmate workers.

“(B)(i) The analysis required by subparagraph (A) shall be performed by an interagency team on a reimbursable basis or by a private contractor paid by Federal Prison Industries.

“(ii) If the analysis is to be performed by an interagency team, such team shall be led by the Administrator of the Small Business Administration or the designee of such officer with representatives of the Department of Labor, the Department of Commerce, and the Federal Procurement Data Center.

“(iii) If the analysis is to be performed by a private contractor, the selection of the contractor and the administration of the contract shall be conducted by one of the entities referenced in clause (ii) as an independent executive agent for the board of directors. Maximum consideration shall be given to any proposed statement of work furnished by the Chief Operating Officer of Federal Prison Industries.

“(C) The analysis required by subparagraph (A) shall identify and consider—

“(i) the number of vendors that currently meet the requirements of the Federal Government for the specific product or specific service;

“(ii) the proportion of the Federal Government market for the specific product or specific service currently furnished by small businesses during the previous 3 fiscal years;

“(iii) the share of the Federal market for the specific product or specific service projected for



Federal Prison Industries for the fiscal year in which production or performance will commence or expand and the subsequent 4 fiscal years;

“(iv) whether the industry producing the specific product or specific service in the private sector—

“(I) has an unemployment rate higher than the national average; or

“(II) has a rate of unemployment for workers that has consistently shown an increase during the previous 5 years;

“(v) whether the specific product is an import-sensitive product;

“(vi) the requirements of the Federal Government and the demands of entities other than the Federal Government for the specific product or service during the previous 3 fiscal years;

“(vii) the projected growth or decline in the demand of the Federal Government for the specific product or specific service;

“(viii) the capability of the projected demand of the Federal Government for the specific product or service to sustain both Federal Prison Industries and private vendors; and

“(ix) whether authorizing the production of the new product or performance of a new service will provide inmates with the maximum opportunity to acquire knowledge and skill in trades and occupations that will provide them with a means of earning a livelihood upon release.

“(D)(i) The board of directors may not approve a proposal to authorize the production and sale of a new specific product or continued sale of a previously authorized product unless—

“(I) the product to be furnished is a prison-made product; or

“(II) the service to be furnished is to be performed by inmate workers.

“(ii) The board of directors may not approve a proposal to authorize the production and sale of a new prison-made product or to expand production of a currently authorized product if the product is—

“(I) produced in the private sector by an industry which has reflected during the previous year an unemployment rate above the national average; or

“(II) an import-sensitive product.

“(iii) The board of directors may not approve a proposal for inmates to provide a service in which an inmate worker has access to—

“(I) personal or financial information about individual private citizens, including information relating to such person's real property, however described, without giving prior notice to such persons or class of persons to the greatest extent practicable;

“(II) geographic data regarding the location of surface and subsurface infrastructure providing communications, water and electrical power distribution, pipelines for the distribution of natural gas, bulk petroleum products and other commodities, and other utilities; or

“(III) data that is classified.

“(iv)(I) Federal Prison Industries is prohibited from furnishing through inmate labor construction services, unless to be performed within a Federal correctional institution pursuant to the participation of an inmate in an apprenticeship or other vocational education program teaching the skills of the various building trades.

“(II) For purposes of this clause, the term ‘construction’ has the meaning given such term by section 2.101 of the Federal Acquisition Regulation (48 C.F.R. part 2.101), as in effect on June 1, 2004, including the repair, alteration, or maintenance of real property in being.

“(7) To provide further opportunities for participation by interested parties, the board of directors shall—

“(A) give additional notice of a proposal to authorize the production and sale of a new product or service, or expand the production of a currently authorized product or service, in a publication designed to most effectively provide notice to private vendors and labor unions representing private sector workers who could reasonably be expected to be affected by approval

of the proposal, which notice shall offer to furnish copies of the analysis required by paragraph (6) and shall solicit comment on the analysis;

“(B) solicit comments on the analysis required by paragraph (6) from trade associations representing vendors and labor unions representing private sector workers who could reasonably be expected to be affected by approval of the proposal to authorize the production and sale of a new product or service (or expand the production of a currently authorized product or service); and

“(C) afford an opportunity, on request, for a representative of an established trade association, labor union, or other private sector representatives to present comments on the proposal directly to the board of directors.

“(8) The board of directors shall be provided copies of all comments received on the expansion proposal.

“(9) Based on the comments received on the initial expansion proposal, the Chief Operating Officer of Federal Prison Industries may provide the board of directors a revised expansion proposal. If such revised proposal provides for expansion of inmate work opportunities in an industry different from that initially proposed, such revised proposal shall reflect the analysis required by paragraph (6)(C) and be subject to the public comment requirements of paragraph (7).

“(10) The board of directors shall consider a proposal to authorize the sale of a new specific product or specific service (or to expand the volume of sales for a currently authorized product or service) and take any action with respect to such proposal, during a meeting that is open to the public, unless closed pursuant to section 552(b) of title 5.

“(11) In conformance with the requirements of paragraph (10) of this subsection, the board of directors may—

“(A) authorize the donation of products produced or services furnished by Federal industries and available for sale;

“(B) authorize the production of a new specific product or the furnishing of a new specific service for donation; or

“(C) authorize a proposal to expand production of a currently authorized specific product or specific service in an amount in excess of a reasonable share of the market for such product or service, if—

“(i) a Federal agency or department, purchasing such product or service, has requested that Federal Prison Industries be authorized to furnish such product or service in amounts that are needed by such agency or department; or

“(ii) the proposal is justified for other good cause and supported by at least two-thirds of the appointed members of the board.”.

#### SEC. 4. TRANSITIONAL MANDATORY SOURCE AUTHORITY.

(a) IN GENERAL.—Notwithstanding the requirements of section 4124 of title 18, United States Code (as amended by section 2 of this Act), a Federal department or agency having a requirement for a product that is authorized for sale by Federal Prison Industries and is listed in its catalog (referred to in section 4124(g) of title 18, United States Code) shall first solicit an offer from Federal Prison Industries and make purchases on a noncompetitive basis in accordance with this section or in accordance with section 2410n of title 10, United States Code, or section 318 of title III of the Federal Property and Administrative Services Act of 1949 (as added by subsection (i)).

(b) PREFERENTIAL SOURCE STATUS.—Subject to the limitations of subsection (d), a contract award shall be made on a noncompetitive basis to Federal Prison Industries if the contracting officer for the procurement activity determines that—

(1) the product offered by Federal Prison Industries will meet the requirements of the procurement activity (including commercial or gov-

ernmental standards or specifications pertaining to design, performance, testing, safety, serviceability, and warranties as may be imposed upon a private sector supplier of the type being offered by Federal Prison Industries);

(2) timely performance of the contract by Federal Prison Industries can be reasonably expected; and

(3) the negotiated price does not exceed a fair and reasonable price.

(c) CONTRACTUAL TERMS.—The terms and conditions of the contract and the price to be paid to Federal Prison Industries shall be determined by negotiation between Federal Prison Industries and the Federal agency making the purchase. The negotiated price shall not exceed a fair and reasonable price determined in accordance with the procedures of the Federal Acquisition Regulation.

#### (d) PERFORMANCE OF CONTRACTUAL OBLIGATIONS.—

(1) IN GENERAL.—Federal Prison Industries shall perform the obligations of the contract negotiated pursuant to subsection (c).

(2) PERFORMANCE DISPUTES.—If the head of the contracting activity and the Chief Operating Officer of Federal Prison Industries are unable to resolve a contract performance dispute to their mutual satisfaction, such dispute shall be resolved pursuant to section 4124(e)(3) of title 18, United States Code (as added by section 2 of this Act).

#### (e) LIMITATIONS ON USE OF AUTHORITY.—

(1) IN GENERAL.—As a percentage of the sales made by Federal Prison Industries during the base period, the total dollar value of sales to the Government made pursuant to subsection (b) and subsection (c) of this section shall not exceed—

(A) 90 percent in fiscal year 2007;

(B) 85 percent in fiscal year 2008;

(C) 70 percent in fiscal year 2009;

(D) 55 percent in fiscal year 2010; and

(E) 40 percent in fiscal year 2011.

(2) SALES WITHIN VARIOUS BUSINESS SECTORS.—Use of the authority provided by subsections (b) and (c) shall not result in sales by Federal Prison Industries to the Government that are in excess of its total sales during the base year for each business sector.

(3) LIMITATIONS RELATING TO SPECIFIC PRODUCTS.—Use of the authorities provided by subsections (b) and (c) shall not result in contract awards to Federal Prison Industries that are in excess of its total sales during the base period for such product.

(4) CHANGES IN DESIGN SPECIFICATIONS.—If a buying agency directs a change to the design specification for a specific product, the costs associated with the implementation of such specification change by Federal Prison Industries shall not be considered for the purposes of computing sales by Federal Prison Industries for the purposes of paragraphs (2) and (3).

(f) ADDITIONAL AUTHORITY TO SUSTAIN INMATE EMPLOYMENT.—During the period specified in subsection (g), the authority of section 4122(b)(11)(C)(ii) of title 18, United States Code (as added by section 3), may be used by the Board to sustain inmate employment.

(g) DURATION OF AUTHORITY.—The preferential contracting authorities authorized by subsection (b) may not be used on or after October 1, 2011, and become effective on the effective date of the final regulations issued pursuant to section 17.

(h) DEFINITIONS.—For the purposes of this section—

(1) the term “base period” means the total sales of Federal Prison Industries during the period October 1, 2003, and September 30, 2004 (Fiscal Year 2004);

(2) the term “business sectors” means the seven product/service business groups identified in the 2004 Federal Prison Industries annual report as the Clothing and Textiles Business Group, the Electronics Business Group, the Fleet Management and Vehicular Components

Business Group, the Industrial Products Business Group, the Office Furniture Business Group, the Recycling Activities Business Group, and the Services Business Group; and

(3) the term “fair and reasonable price” shall be given the same meaning as, and be determined pursuant to, part 15.8 of the Federal Acquisition Regulation (48 C.F.R. 15.8).

(i) **FINDING BY ATTORNEY GENERAL WITH RESPECT TO PUBLIC SAFETY.**—(1) Not later than 60 days prior to the end of each fiscal year specified in subsection (e)(1), the Attorney General shall make a finding regarding the effects of the percentage limitation imposed by such subsection for such fiscal year and the likely effects of the limitation imposed by such subsection for the following fiscal year.

(2) The Attorney General’s finding shall include a determination whether such limitation has resulted or is likely to result in a substantial reduction in inmate industrial employment and whether such reductions, if any, present a significant risk of adverse effects on safe prison operation or public safety.

(3) If the Attorney General finds a significant risk of adverse effects on either safe prison management or public safety, he shall so advise the Congress.

(4) In advising the Congress pursuant to paragraph (3), the Attorney General shall make recommendations for additional authorizations of appropriations to provide additional alternative inmate rehabilitative opportunities and additional correctional staffing, as may be appropriate.

(j) **PROCEDURAL REQUIREMENTS FOR CIVILIAN AGENCIES RELATING TO PRODUCTS OF FEDERAL PRISON INDUSTRIES.**—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by adding at the end the following new section:

**“SEC. 318. PRODUCTS OF FEDERAL PRISON INDUSTRIES: PROCEDURAL REQUIREMENTS.**

“(a) **MARKET RESEARCH.**—Before purchasing a product listed in the latest edition of the Federal Prison Industries catalog under section 4124(g) of title 18, United States Code, the head of an executive agency shall conduct market research to determine whether the Federal Prison Industries product is comparable to products available from the private sector that best meet the executive agency’s needs in terms of price, quality, and time of delivery.

“(b) **COMPETITION REQUIREMENT.**—If the head of the executive agency determines that a Federal Prison Industries product is not comparable in price, quality, or time of delivery to products available from the private sector that best meet the executive agency’s needs in terms of price, quality, and time of delivery, the agency head shall use competitive procedures for the procurement of the product or shall make an individual purchase under a multiple award contract. In conducting such a competition or making such a purchase, the agency head shall consider a timely offer from Federal Prison Industries.

“(c) **IMPLEMENTATION BY HEAD OF EXECUTIVE AGENCY.**—The head of an executive agency shall ensure that—

“(1) the executive agency does not purchase a Federal Prison Industries product or service unless a contracting officer of the agency determines that the product or service is comparable to products or services available from the private sector that best meet the agency’s needs in terms of price, quality, and time of delivery; and

“(2) Federal Prison Industries performs its contractual obligations to the same extent as any other contractor for the executive agency.

“(d) **MARKET RESEARCH DETERMINATION NOT SUBJECT TO REVIEW.**—A determination by a contracting officer regarding whether a product or service offered by Federal Prison Industries is comparable to products or services available from the private sector that best meet an executive agency’s needs in terms of price, quality, and time of delivery shall not be subject to review pursuant to section 4124(b) of title 18.

“(e) **PERFORMANCE AS A SUBCONTRACTOR.**—(1) A contractor or potential contractor of an executive agency may not be required to use Federal Prison Industries as a subcontractor or supplier of products or provider of services for the performance of a contract of the executive agency by any means, including means such as—

“(A) a contract solicitation provision requiring a contractor to offer to make use of products or services of Federal Prison Industries in the performance of the contract;

“(B) a contract specification requiring the contractor to use specific products or services (or classes of products or services) offered by Federal Prison Industries in the performance of the contract; or

“(C) any contract modification directing the use of products or services of Federal Prison Industries in the performance of the contract.

“(2) In this subsection, the term ‘contractor’, with respect to a contract, includes a subcontractor at any tier under the contract.

“(f) **PROTECTION OF CLASSIFIED AND SENSITIVE INFORMATION.**—The head of an executive agency may not enter into any contract with Federal Prison Industries under which an inmate worker would have access to—

“(1) any data that is classified;

“(2) any geographic data regarding the location of—

“(A) surface and subsurface infrastructure providing communications or water or electrical power distribution;

“(B) pipelines for the distribution of natural gas, bulk petroleum products, or other commodities; or

“(C) other utilities; or

“(3) any personal or financial information about any individual private citizen, including information relating to such person’s real property however described, without the prior consent of the individual.

“(g) **DEFINITIONS.**—In this section:

“(1) The term ‘competitive procedures’ has the meaning given such term in section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5)).

“(2) The term ‘market research’ means obtaining specific information about the price, quality, and time of delivery of products available in the private sector through a variety of means, which may include—

“(A) contacting knowledgeable individuals in government and industry;

“(B) interactive communication among industry, acquisition personnel, and customers; and

“(C) interchange meetings or pre-solicitation conferences with potential offerors.”.

**SEC. 5. AUTHORITY TO PERFORM AS A FEDERAL SUBCONTRACTOR.**

(a) **IN GENERAL.**—Federal Prison Industries is authorized to enter into a contract with a Federal contractor (or a subcontractor of such contractor at any tier) to produce products as a subcontractor or supplier in the performance of a Federal procurement contract. The use of Federal Prison Industries as a subcontractor or supplier shall be a wholly voluntary business decision by the Federal prime contractor or subcontractor, subject to any prior approval of subcontractors or suppliers by the contracting officer which may be imposed by the Federal Acquisition Regulation or by the contract.

(b) **LIMITATIONS ON USE.**—Federal Prison Industries is prohibited from being a subcontractor or supplier at any tier if—

(1) the product or service is to be acquired by a Federal department or agency pursuant to section 3 of the Javits-Wagner-O’Day Act (41 U.S.C. 48); or

(2) the product to be acquired by the Federal department or agency is subject to section 2533a of title 10, United States Code.

(c) **COMMERCIAL SALES PROHIBITED.**—The authority provided by subsection (a) shall not result, either directly or indirectly, in the sale in the commercial market of a product or service resulting from the labor of Federal inmate work-

ers in violation of section 1761(a) of title 18, United States Code. A Federal contractor (or subcontractor at any tier) using Federal Prison Industries as a subcontractor or supplier in furnishing a commercial product pursuant to a Federal contract shall implement appropriate management procedures to prevent introducing an inmate-produced product into the commercial market.

(d) **PROHIBITIONS ON MANDATING SUBCONTRACTING WITH FEDERAL PRISON INDUSTRIES.**—Except as authorized under the Federal Acquisition Regulation, the use of Federal Prison Industries as a subcontractor or supplier of products or provider of services shall not be imposed upon prospective or actual Federal prime contractors or a subcontractors at any tier by means of—

(1) a contract solicitation provision requiring a contractor to offer to make use of Federal Prison Industries, its products or services;

(2) specifications requiring the contractor to use specific products or services (or classes of products or services) offered by Federal Prison Industries in the performance of the contract;

(3) any contract modification directing the use of Federal Prison Industries, its products or services; or

(4) any other means.

**SEC. 6. INMATE WAGES AND DEDUCTIONS.**

Section 4122(b) of title 18, United States Code (as amended by section 3 of this Act), is further amended by adding after paragraph (11) a new paragraph (12) as follows:

“(12)(A) The Board of Directors of Federal Prison Industries shall prescribe the rates of hourly wages to be paid inmates performing work for or through Federal Prison Industries. The Director of the Federal Bureau of Prisons shall prescribe the rates of hourly wages for other work assignments within the various Federal correctional institutions. In the case of an inmate whose term of imprisonment is to expire in not more than 2 years, wages shall be earned at an hourly rate of not less than \$2.50, but paid at the same rate and in the same manner as to any other inmate, and any amount earned but not paid shall be held in trust and paid only upon the actual expiration of the term of imprisonment.

“(B) The various inmate wage rates shall be reviewed and considered for increase on not less than a biannual basis.

“(C) The Board of Directors of Federal Prison Industries shall—

“(i) not later than September 30, 2008, increase the maximum wage rate for inmates performing work for or through Federal Prison Industries to an amount equal to 50 percent of the minimum wage prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)); and

“(ii) not later than September 30, 2013, increase such maximum wage rate to an amount equal to such minimum wage.

“(D) Wages earned by an inmate worker shall be paid in the name of the inmate. Deductions, aggregating to not more than 80 percent of gross wages, shall be taken from the wages due for—

“(i) applicable taxes (Federal, State, and local);

“(ii) payment of fines and restitution pursuant to court order;

“(iii) payment of additional restitution for victims of the inmate’s crimes (at a rate not less than 10 percent of gross wages);

“(iv) allocations for support of the inmate’s family pursuant to statute, court order, or agreement with the inmate;

“(v) allocations to a fund in the inmate’s name to facilitate such inmate’s assimilation back into society, payable at the conclusion of incarceration; and

“(vi) such other deductions as may be specified by the Director of the Bureau of Prisons.

“(E) Each inmate worker working for Federal Prison Industries shall indicate in writing that such person—

“(i) is participating voluntarily; and  
 “(ii) understands and agrees to the wages to be paid and deductions to be taken from such wages.”.

#### SEC. 7. CLARIFYING AMENDMENT RELATING TO SERVICES.

(a) IN GENERAL.—Section 1761 of title 18, United States Code, is amended in subsection (a) and (c) by striking “goods, wares, or merchandise manufactured, produced, or mined” each place it appears and inserting “products manufactured, services furnished, or minerals mined”.

(b) COMPLETION OF EXISTING AGREEMENTS.—Any prisoner work program operated by a prison or jail of a State or local jurisdiction of a State which is providing services for the commercial market through inmate labor on October 1, 2004, may continue to provide such commercial services until—

(1) the expiration date specified in the contract or other agreement with a commercial partner on October 1, 2004, or

(2) until September 30, 2010, if the prison work program is directly furnishing the services to the commercial market.

(c) APPROVAL REQUIRED FOR LONG-TERM OPERATION.—A prison work program operated by a correctional institution operated by a State or local jurisdiction of a State may continue to provide inmate labor to furnish services for sale in the commercial market after the dates specified in subsection (b) if such program has been certified pursuant to section 1761(c)(1) of title 18, United States Code, and is in compliance with the requirements of such subsection and its implementing regulations.

(d) EXISTING WORK OPPORTUNITIES FOR FEDERAL INMATES.—Any private for-profit business entity having an agreement with Federal Prison Industries in effect on the date of enactment of this Act, under which Federal inmates are furnishing services that are being introduced into the commercial market, may continue to furnish such services for the duration of the term of such agreement.

(e) ADDITIONAL AMENDMENT.—Section 1761 of title 18, United States Code, is further amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

“(d) This section shall not apply to services performed as part of an inmate work program conducted by a State or local government to disassemble, scrap, and recycle products, other than electronic products, that would otherwise be disposed of in a landfill. Recovered scrap from such program may be sold.”.

#### SEC. 8. CONFORMING AMENDMENT.

Section 4122(a) of title 18, United States Code, is amended by striking “production of commodities” and inserting “production of products or furnishing of services”.

#### SEC. 9. RULES OF CONSTRUCTION RELATING TO CHAPTER 307.

Chapter 307 of title 18, United States Code, is further amended by adding at the end the following:

##### “§4130. Construction of provisions

“Nothing in this chapter shall be construed—  
 “(1) to establish an entitlement of any inmate to—

“(A) employment in a Federal Prison Industries facility; or

“(B) any particular wage, compensation, or benefit on demand, except as otherwise specifically provided by law or regulation;

“(2) to establish that inmates are employees for the purposes of any law or program; or

“(3) to establish any cause of action by or on behalf of any inmate against the United States or any officer, employee, or contractor thereof.”.

#### SEC. 10. PROVIDING ADDITIONAL REHABILITATIVE OPPORTUNITIES FOR INMATES.

(a) ADDITIONAL EDUCATIONAL, TRAINING, AND RELEASE-PREPARATION OPPORTUNITIES.—

(1) PROGRAM ESTABLISHED.—There is hereby established the Enhanced In-Prison Educational and Vocational Assessment and Training Program within the Federal Bureau of Prisons.

(2) COMPREHENSIVE PROGRAM.—In addition to such other components as the Director of the Bureau of Prisons deems appropriate to reduce inmate idleness and better prepare inmates for a successful reentry into the community upon release, the program shall provide—

(A) in-prison assessments of inmates' needs and aptitudes;

(B) a full range of educational opportunities;

(C) vocational training and apprenticeships; and

(D) comprehensive release-readiness preparation.

(3) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out the program established by paragraph (1), \$75,000,000 is authorized for each fiscal year after fiscal year 2008, to remain available until expended. It is the sense of Congress that Federal Prison Industries should use some of its net earnings to accomplish the purposes of the program.

(4) SCHEDULE FOR IMPLEMENTATION.—All components of the program shall be established—

(A) in at least 25 percent of all Federal prisons not later than 2 years after the date of the enactment of this Act;

(B) in at least 50 percent of all Federal prisons not later than 4 years after such date of enactment;

(C) in at least 75 percent of all Federal prisons not later than 6 years after such date of enactment; and

(D) in all Federal prisons not later than 8 years after such date of enactment.

(b) ADDITIONAL INMATE WORK OPPORTUNITIES THROUGH PUBLIC SERVICE ACTIVITIES.—

(1) IN GENERAL.—Chapter 307 of title 18, United States Code, is further amended by inserting after section 4124 the following new section:

##### “§4124a. Additional inmate work opportunities through public service activities

“(a) IN GENERAL.—Inmates with work assignments within Federal Prison Industries may perform work for an eligible entity pursuant to an agreement between such entity and the Inmate Work Training Administrator in accordance with the requirements of this section.

“(b) DEFINITION OF ELIGIBLE ENTITIES.—For the purposes of this section, the term ‘eligible entity’ means an entity—

“(1) that is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code and that has been such an organization for a period of not less than 36 months prior to inclusion in an agreement under this section;

“(2) that is a religious organization described in section 501(d) of such Code and exempt from taxation under section 501(a) of such Code; or

“(3) that is a unit of local government, a school district, or another special purpose district.

“(c) INMATE WORK TRAINING ADMINISTRATOR.—There is hereby established the position of Inmate Work Training Administrator, who shall be responsible for fostering the creation of alternative inmate work opportunities authorized by this section. The Administrator shall be designated by the Chief Executive Officer of Federal Prison Industries, with the approval of the Board of Directors, and be under the supervision of the Chief Operating Officer, but may directly report to the Board.

“(d) PROPOSED AGREEMENTS.—An eligible entity seeking to enter into an agreement pursuant to subsection (a) shall submit a detailed proposal to the Inmate Work Training Administrator. Each such agreement shall specify—

“(1) types of work to be performed;

“(2) the proposed duration of the agreement, specified in terms of a base year and number of option years;

“(3) the number of inmate workers expected to be employed in the specified types of work during the various phases of the agreement;

“(4) the wage rates proposed to be paid to various classes of inmate workers; and

“(5) the facilities, services and personnel (other than correctional personnel dedicated to the security of the inmate workers) to be furnished by Federal Prison Industries or the Bureau of Prisons and the rates of reimbursement, if any, for such facilities, services, and personnel.

“(e) REPRESENTATIONS.—

“(1) ELEEMOSYNARY WORK ACTIVITIES.—Each proposed agreement shall be accompanied by a written certification by the chief executive officer of the eligible entity that—

“(A) the work to be performed by the inmate workers will be limited to the eleemosynary work of such entity in the case of an entity described in paragraph (1) or (2) of subsection (b);

“(B) the work would not be performed in the United States but for the availability of the inmate workers; and

“(C) the work performed by the inmate workers will not result, either directly or indirectly, in the production of a new product or the furnishing of a service that is to be offered for other than resale or donation by the eligible entity or any affiliate of the such entity.

“(2) PROTECTIONS FOR NON-INMATE WORKERS.—Each proposed agreement shall also be accompanied by a written certification by the chief executive officer of the eligible entity that—

“(A) no non-inmate employee (including any person performing work activities for such governmental entity pursuant to section 607 of subchapter IV of the Social Security Act (42 U.S.C. 607)) of the eligible entity (or any affiliate of the entity) working in the United States will have his or her job abolished or work hours reduced as a result of the entity being authorized to utilize inmate workers; and

“(B) the work to be performed by the inmate workers will not supplant work currently being performed in the United States by a contractor of the eligible entity.

“(f) APPROVAL BY BOARD OF DIRECTORS.—

“(1) IN GENERAL.—Each such proposed agreement shall be presented to the Board of Directors, be subject to the same opportunities for public comment, and be publicly considered and acted upon by the Board in a manner comparable to that required by paragraphs (7) and (8) of section 4122(b).

“(2) MATTERS TO BE CONSIDERED.—In determining whether to approve a proposed agreement, the Board shall—

“(A) give priority to an agreement that provides inmate work opportunities that will provide participating inmates with the best prospects of obtaining employment paying a livable wage upon release;

“(B) give priority to an agreement that provides for maximum reimbursement for inmate wages and for the costs of supplies and equipment needed to perform the types of work to be performed;

“(C) not approve an agreement that will result in the displacement of non-inmate workers contrary to the representations required by subsection (e)(2) as determined by the Board or by the Secretary of Labor (pursuant to subsection (i)); and

“(D) not approve an agreement that will result, either directly or indirectly, in the production of a new product or the furnishing of a service for other than resale by an eligible entity described in paragraph (1) or (2) of subsection (b) or donation.

“(g) WAGE RATES AND DEDUCTIONS FROM INMATE WAGES.—

“(1) IN GENERAL.—Inmate workers shall be paid wages for work under the agreement at a basic hourly rate to be negotiated between the eligible entity and Federal Prison Industries and specified in the agreement. The wage rates

set by the Director of the Federal Bureau of Prisons to be paid inmates for various institutional work assignments are specifically authorized.

“(2) PAYMENT TO INMATE WORKER AND AUTHORIZED DEDUCTIONS.—Wages shall be paid and deductions taken pursuant to section 4122(b)(12)(D).

“(3) VOLUNTARY PARTICIPATION BY INMATE.—Each inmate worker to be utilized by an eligible entity shall indicate in writing that such person—

“(A) is participating voluntarily; and

“(B) understands and agrees to the wages to be paid and deductions to be taken from such wages.

“(h) ASSIGNMENT TO WORK OPPORTUNITIES.—Assignment of inmates to work under an approved agreement with an eligible entity shall be subject to the Bureau of Prisons Program Statement Number 1040.10 (Non-Discrimination Toward Inmates), as contained in section 551.90 of title 28 of the Code of Federal Regulations (or any successor document).

“(i) ENFORCEMENT OF PROTECTIONS FOR NON-INMATE WORKERS.—

“(1) PRIOR TO BOARD CONSIDERATION.—Upon request of any interested person, the Secretary of Labor may promptly verify a certification made pursuant subsection (e)(2) with respect to the displacement of non-inmate workers so as to make the results of such inquiry available to the Board of Directors prior to the Board's consideration of the proposed agreement. The Secretary and the person requesting the inquiry may make recommendations to the Board regarding modifications to the proposed agreement.

“(2) DURING PERFORMANCE.—

“(A) IN GENERAL.—Whenever the Secretary deems appropriate, upon request or otherwise, the Secretary may verify whether the actual performance of the agreement is resulting in the displacement of non-inmate workers or the use of inmate workers in a work activity not authorized under the approved agreement.

“(B) SANCTIONS.—Whenever the Secretary determines that performance of the agreement has resulted in the displacement of non-inmate workers or employment of an inmate worker in an unauthorized work activity, the Secretary may—

“(i) direct the Inmate Work Training Administrator to terminate the agreement for default, subject to the processes and appeals available to a Federal contractor whose procurement contract has been terminated for default; and

“(ii) initiate proceedings to impose upon the person furnishing the certification regarding non-displacement of non-inmate workers required by subsection (d)(2)(B) any administrative, civil, and criminal sanctions as may be available.”

(2) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated \$5,000,000 for each of the fiscal years 2008 through 2012 for the purposes of paying the wages of inmates and otherwise undertaking the maximum number of agreements with eligible entities pursuant to section 4124a of title 18, United States Code, as added by paragraph (1).

(3) SENSE OF CONGRESS.—For purposes of sections 4124a and 4124b of title 18, United States Code, as added by sections 10(b) and 11, respectively, it is the sense of Congress that an inmate training wage that is at least 50 percent of the minimum wage prescribed pursuant to section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) will facilitate successful achievement of the goals of the work-based training and apprenticeship program authorized under such section 4124a.

(c) INMATE WORK OPPORTUNITIES IN SUPPORT OF NOT-FOR-PROFIT ENTITIES.—

(1) PROPOSALS FOR DONATION PROGRAMS.—The Chief Operating Officer of Federal Prison Industries shall develop and present to the Board of Directors of Federal Prison Industries proposals to have Federal Prison Industries do-

nate products and services to eligible entities that provide goods or services to low-income individuals who would likely otherwise have difficulty purchasing such products or services in the commercial market.

(2) SCHEDULE FOR SUBMISSION AND CONSIDERATION OF DONATION PROGRAMS.—

(A) INITIAL PROPOSALS.—The Chief Operating Officer shall submit the initial group of proposals for programs of the type described in paragraph (1) within 180 days after the date of the enactment of this Act. The Board of Directors of Federal Prison Industries shall consider such proposals from the Chief Operating Officer not later than the date that is 270 days after the date of the enactment of this Act.

(B) ANNUAL OPERATING PLAN.—The Board of Directors of Federal Prison Industries shall consider proposals by the Chief Operating Officer for programs of the type described in paragraph (1) as part of the annual operating plan for Federal Prison Industries.

(C) OTHER PROPOSALS.—In addition to proposals submitted by the Chief Operating Officer, the Board of Directors may, from time to time, consider proposals presented by prospective eligible entities.

(3) DEFINITION OF ELIGIBLE ENTITIES.—For the purposes of this subsection, the term “eligible entity” means an entity—

(A) that is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code and that has been such an organization for a period of not less than 36 months prior to inclusion in a proposal of the type described in paragraph (1), or

(B) that is a religious organization described in section 501(d) of such Code and exempt from taxation under section 501(a) of such Code.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$7,000,000 for each of the fiscal years 2008 through 2012 for the purposes of paying the wages of inmates and otherwise carrying out programs of the type described in paragraph (1).

(d) MAXIMIZING INMATE REHABILITATIVE OPPORTUNITIES THROUGH COGNITIVE ABILITIES ASSESSMENTS.—

(1) DEMONSTRATION PROGRAM AUTHORIZED.—

(A) IN GENERAL.—There is hereby established within the Federal Bureau of Prisons a program to be known as the “Cognitive Abilities Assessment Demonstration Program”. The purpose of the demonstration program is to determine the effectiveness of a program that assesses the cognitive abilities and perceptual skills of Federal inmates to maximize the benefits of various rehabilitative opportunities designed to prepare each inmate for a successful return to society and reduce recidivism. The demonstration program shall be undertaken by a contractor with a demonstrated record of enabling the behavioral and academic improvement of adults through the use of research-based systems that maximize the development of both the cognitive and perceptual capabilities of a participating individual, including adults in a correctional setting.

(B) SCOPE OF DEMONSTRATION PROGRAM.—The demonstration program shall to the maximum extent practicable, be—

(i) conducted during a period of three consecutive fiscal years, commencing during fiscal year 2008;

(ii) conducted at 12 Federal correctional institutions; and

(iii) offered to 6,000 inmates, who are categorized as minimum security or less, and are within five years of release.

(C) REPORT ON RESULTS OF PROGRAM.—Not later than 60 days after completion of the demonstration program, the Director shall submit to Congress a report on the results of the program. At a minimum, the report shall include an analysis of employment stability, stability of residence, and rates of recidivism among inmates who participated in the program after 18 months of release.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$3,000,000 in each of the three fiscal years after fiscal year 2007, to remain available until expended, for the purposes of conducting the demonstration program authorized by subsection (a).

(e) PRERELEASE EMPLOYMENT ASSISTANCE.—

(1) IN GENERAL.—The Director of the Federal Bureau of Prisons shall, to the maximum extent practicable, afford to inmates opportunities to participate in programs and activities designed to help prepare such inmates to obtain employment upon release.

(2) PRERELEASE EMPLOYMENT PLACEMENT ASSISTANCE.—Such prerelease employment placement assistance required by subsection (a) shall include—

(A) training in the preparation of resumes and job applications;

(B) training in interviewing skills;

(C) training and assistance in job search techniques;

(D) conduct of job fairs; and

(E) such other methods deemed appropriate by the Director.

(3) PRIORITY PARTICIPATION.—Priority in program participation shall be accorded to inmates who are participating in work opportunities afforded by Federal Prison Industries and are within 24 months of release from incarceration.

## SEC. 11. RE-ENTRY EMPLOYMENT PREPARATION THROUGH WORK-BASED TRAINING AND APPRENTICESHIP.

(a) IN GENERAL.—Chapter 307 of title 18, United States Code, is further amended by inserting after section 4124a, as added by section 10(b), the following new section:

### “§4124b. Re-entry employment preparation through work-based training and apprenticeship.

“(a) PARTICIPATION AUTHORIZED.—A private for-profit business entity shall be an eligible entity for participation in the program authorized by section 4124a of this title, if such participation conforms with the requirements and limitations of this section.

“(b) REQUIREMENTS RELATING TO PRODUCTS AND SERVICES.—A private for-profit business entity is eligible for such participation if such business entity proposes to train participating inmates, pursuant to subsection (c), by producing a product or performing a service, if such product or service is of a type for which there is no production or performance within the United States by noninmate workers.

“(c) REQUIREMENTS RELATING TO TRAINING.—

(1) IN GENERAL.—For purposes of this section, the training of participating inmates shall be work-based training that provides to a participating inmate apprenticeship training or a functionally equivalent structured program that combines hands-on work experience with conceptual understanding of the work being performed. Other inmates with regular work assignments within Federal Prison Industries may be assigned to support the program.

(2) DOCUMENTATION OF PROGRAM PARTICIPATION.—

“(A) Each inmate who successfully completes participation in training undertaken pursuant to this section shall be provided a certificate or other written document memorializing such successful completion, providing a marketable summary of the skills learned and an overall assessment of performance.

“(B) Copies of such documents shall be furnished to perspective employers upon the request of the participant for a period of not less than 24 months from the date of such participant's release from incarceration.

“(3) DOCUMENTS REQUIRED FOR EMPLOYMENT.—The Federal Bureau of Prisons, in cooperation with a business entity providing an inmate work-based training at the time of his or her scheduled release, shall make every reasonable effort to help the inmate timely obtain such documentation (including a State government-

issued photo identification card) as a person may be required to provide to a prospective employer, after such person completes an Employment Eligibility Verification (ICE Form I-9).

“(d) WAGE RATES.—

“(1) IN GENERAL.—Business entities participating in the program authorized by subsection (a) shall propose wages for inmates participating in the program at rates not less than the inmate training wage promulgated pursuant to section 17(c) of the Federal Prison Industries Competition in Contracting Act of 2006.

“(2) INMATE TRAINING WAGE.—Not more than 30 days after the date of enactment of this section, the Board of Directors of Federal Prison Industries shall request the Secretary of Labor to promulgate an inmate training wage pursuant to section 14(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 214(a)).

“(e) SUPPORT FOR OTHER RELEASE PREPARATION PROGRAMS.—In addition to the matters listed in section 4124a(d) of this title, a proposal for an agreement referred to in such section submitted by an eligible business entity shall specify an amount of any supplemental funding, specified as a per-capita amount for each inmate participating pursuant to the agreement, that the business entity will provide for the purpose of supporting remedial, vocational, and other release preparation programs for other nonparticipating inmates.

“(f) ADDITIONAL STANDARDS APPLICABLE.—In considering a proposed agreement pursuant to section 4124a(f)(1) of this title, the Board of Directors shall—

“(1) give preference to an agreement that proposes—

“(A) work-based training opportunities that provide the participating inmate the best prospects for obtaining employment paying a livable wage upon release;

“(B) the highest per-capita amount pursuant to subsection (e) relating to providing financial support for release preparation for other inmates; and

“(C) the highest inmate wage rates;

“(2) not approve any agreement with respect to furnishing services of the type described in section 4122(b)(6)(D)(iii) of this title;

“(3) not approve any agreement with respect to furnishing construction services described in section 4122(b)(6)(D)(iv) of this title, unless to be performed within a Federal correctional institution;

“(4) not approve an agreement that does not meet the standards of subsection (b); and

“(5) request a determination from the International Trade Commission (and such other executive branch entities as may be appropriate), regarding whether a product or service is of the type being produced or performed in the United States by noninmate workers, whenever the Board determines that such an additional assessment is warranted, including upon a request from an interested party presenting information that the Board deems to warrant such additional assessment prior to the Board's consideration of the proposed agreement.

“(g) LIMITATIONS ON THE USE OF THE AUTHORITY.—

“(1) NO SALES BY FEDERAL PRISON INDUSTRIES.—Federal Prison Industries is prohibited from directly offering for commercial sale products produced or services furnished by Federal inmates, including through any form of electronic commerce.

“(2) DURATION.—

“(A) No proposed agreement pursuant to this subsection may be approved by the Board of Directors after September 30, 2016.

“(B) Performance of all such agreements shall be concluded prior to October 1, 2021.”

(b) REVIEW AND REPORTING BY THE ATTORNEY GENERAL.—Not less than biannually, beginning in fiscal year 2008, the Attorney General shall meet in person jointly with the Chairman of the Board of Directors and the Chief Executive Officer of Federal Prison Industries to review the

progress that Federal Prison Industries is making in maximizing the use of the authority provided by sections 4124a and 4124b of title 18, United States Code. The Attorney General shall provide annually a written report to the Committees on the Judiciary and Appropriations of the House of Representatives and the Senate addressing such progress by Federal Prison Industries.

(c) GAO ASSESSMENT OF WORK-BASED TRAINING PROGRAM.—

(1) IN GENERAL.—The Comptroller General of the United States shall undertake an on-going assessment of the authority granted by section 4124b of title 18, United States Code, as added by subsection (a).

(2) MATTERS TO BE ASSESSED.—In addition to such other matters as the Comptroller General deems appropriate, the assessment shall include—

(A) efforts to recruit private for-profit business entities to participate;

(B) the quality of training provided to inmates;

(C) the amounts and types of products and services that have been produced incident to the work-based training programs;

(D) the types of worksite arrangement that encourage business concerns to voluntarily enter into such partnerships;

(E) the extent and manner of the participation of supervisory, quality assurance, and other management employees of the participating business entity in worksites within correctional facilities of various levels of security;

(F) the extent of the facilities, utilities, equipment, and personnel (other than security personnel) provided by the host correctional agency, and extent to which such resources are provided on a nonreimbursable basis;

(G) the rates of wages paid to inmate workers and the effect that such wage rates have on willingness of business entities to participate;

(H) any complaints filed regarding the displacement of noninmate workers or of inmate workers being paid less than required wages and the disposition of those complaints;

(I) any sanctions recommended relating to displacement of noninmate workers or payment of less than the required wages, and the disposition of such proposed sanctions;

(J) the extent to which the new authority provided additional inmate work opportunities assisting the Bureau of Prisons in attaining its objective of providing 25 percent of the work-eligible inmates with work opportunities within Federal Prison Industries;

(K) measures of any adverse impacts of implementation of the new authority on business concerns using noninmate workers that are engaged in providing similar types of products and services in direct competition; and

(L) a compilation of data relating work opportunities for Federal inmates with work assignments with Federal Prison Industries provided by—

(i) sales to Federal agencies pursuant to the status of Federal Prison Industries as a mandatory source of supply during the period fiscal year 1990 through fiscal year 2007;

(ii) sales to Federal agencies of services, both through non-competitive interagency transfers and as a result of direct competition from private-sector offerors during the period fiscal year 1990 through fiscal year 2007;

(iii) performance as a subcontractor to a Federal prime contractor or Federal subcontractor at a higher tier beginning in fiscal year 1990;

(iv) introduction of inmate-furnished services into the commercial market, beginning in the second quarter of fiscal year 1998;

(v) alternative inmate work opportunities, beginning in fiscal year 2007, provided by agreements with—

(I) non-profit organizations, pursuant to section 4124a(b)(1) of title 18, United States Code, as added by section 10(b), and section 10(c);

(II) religious organizations, pursuant to section 4124a(b)(2) of title 18, United States Code;

(III) units of local governments, school districts, or other special purpose districts, pursuant to section 4124a(b)(3) of title 18, United States Code;

(IV) work-based Employment Preparation Programs for Federal inmates, pursuant to section 4124b of title 18, United States Code, as added by section 11; or

(V) other means.

(3) OPPORTUNITY FOR PUBLIC COMMENT.—The Comptroller General shall provide an opportunity for public comment on the proposed scope and methodology for the assessment required by paragraph (1), making such modifications in response to such comments as he deems appropriate.

(4) REPORTS AND RECOMMENDATIONS.—

(A) IN GENERAL.—The Comptroller General shall submit to the Congress in accordance with this subsection two interim reports and a final report of the assessment of implementation of the new authority, including such recommendations as the Comptroller General may deem appropriate.

(B) INTERIM REPORTS.—The two interim reports shall encompass the assessment of the implementation of the new authority—

(i) from the effective date of the authority through the end of fiscal year 2007; and

(ii) from the effective date of the authority through the end of fiscal year 2010.

(C) FINAL REPORT.—The final report shall assess the implementation of the new authority from the effective date of the authority through the end of fiscal year 2013.

(D) SUBMISSION TO CONGRESS.—The Comptroller General shall submit the reports required by this paragraph within 6 months after the end of the fiscal years referred to in subparagraphs (B) and (C).

(d) CONFORMING AMENDMENT.—Section 1761 of title 18, United States Code, as amended by section 7, is further amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) inserting after subsection (d) the following new subsection:

“(e) This section shall not apply to products produced or services furnished with inmate labor incidental to the work-based training program authorized pursuant to section 4124b of this title.”

## SEC. 12. RESTRUCTURING THE BOARD OF DIRECTORS.

(a) IN GENERAL.—Section 4121 of title 18, United States Code, is amended to read as follows:

### “§4121. Federal Prison Industries; Board of Directors: executive management

“(a) Federal Prison Industries is a government corporation of the District of Columbia organized to carry on such industrial operations in Federal correctional institutions as authorized by its Board of Directors. The manner and extent to which such industrial operations are carried on in the various Federal correctional institutions shall be determined by the Attorney General.

“(b)(1) The corporation shall be governed by a board of 11 directors appointed by the President.

“(2) In making appointments to the Board, the President shall assure that 3 members represent the business community, 3 members represent organized labor, 1 member shall have special expertise in inmate rehabilitation techniques, 1 member represents victims of crime, 1 member represents the interests of Federal inmate workers, and 2 additional members whose background and expertise the President deems appropriate. The members of the Board representing the business community shall include, to the maximum extent practicable, representation of firms furnishing services as well as firms producing products, especially from those industry categories from which Federal Prison Industries derives substantial sales. The members of the Board representing organized labor shall, to

the maximum practicable, include representation from labor unions whose members are likely to be most affected by the sales of Federal Prison Industries.

“(3) Each member shall be appointed for a term of 5 years, except that of members first appointed—

“(A) 2 members representing the business community shall be appointed for a term of 3 years;

“(B) 2 members representing labor shall be appointed for a term of 3 years;

“(C) 2 members whose background and expertise the President deems appropriate for a term of 3 years;

“(D) 1 member representing victims of crime shall be appointed for a term of 3 years;

“(E) 1 member representing the interests of Federal inmate workers shall be appointed for a term of 3 years;

“(F) 1 member representing the business community shall be appointed for a term of 4 years;

“(G) 1 member representing the business community shall be appointed for a term of 4 years; and

“(H) the members having special expertise in inmate rehabilitation techniques shall be appointed for a term of 5 years.

“(4) The President shall designate 1 member of the Board as Chairperson. The Chairperson may designate a Vice Chairperson.

“(5) Members of the Board may be reappointed.

“(6) Any vacancy on the Board shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term.

“(7) The members of the Board shall serve without compensation. The members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, to attend meetings of the Board and, with the advance approval of the Chairperson of the Board, while otherwise away from their homes or regular places of business for purposes of duties as a member of the Board.

“(8) (A) The Chairperson of the Board may appoint and terminate any personnel that may be necessary to enable the Board to perform its duties.

“(B) Upon request of the Chairperson of the Board, a Federal agency may detail a Federal Government employee to the Board without reimbursement. Such detail shall be without interruption or loss of civil service status or privilege.

“(9) The Chairperson of the Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

“(c) The Director of the Bureau of Prisons shall serve as Chief Executive Officer of the Corporation. The Director shall designate a person to serve as Chief Operating Officer of the Corporation.”.

(b) CONTINUED GOVERNANCE.—The members of the Board of Directors serving on the date of enactment of this Act, and the person selected by them as Chairman, shall continue to exercise the duties and responsibilities of the Board until the earlier of—

(1) the date on which the President has appointed at least 6 members of the Board and designated a new Chairman, pursuant to section 4121 of title 18, United States Code (as added by section 12(a) of this Act); or

(2) the date that is 365 days after the date of enactment of this Act.

#### SEC. 13. PROVIDING ADDITIONAL MANAGEMENT FLEXIBILITY TO FEDERAL PRISON INDUSTRIES OPERATIONS.

Section 4122(b)(3) of title 18, United States Code, is amended—

(1) by striking “(3)” and inserting “(3)(A)”;

and

(2) by adding at the end the following new paragraphs:

“(B) Federal Prison Industries may locate more than one workshop at a Federal correctional facility.

“(C) Federal Prison Industries may operate a workshop outside of a correctional facility if all of the inmates working in such workshop are classified as minimum security inmates.”.

#### SEC. 14. TRANSITIONAL PERSONNEL MANAGEMENT AUTHORITY.

Any correctional officer or other employee of Federal Prison Industries being paid with non-appropriated funds who would be separated from service because of a reduction in the net income of Federal Prison Industries during any fiscal year specified in section 4(e)(1) shall be—

(1) eligible for appointment (or reappointment) in the competitive service pursuant to title 5, United States Code;

(2) registered on a Bureau of Prisons reemployment priority list; and

(3) given priority for any other position within the Bureau of Prisons for which such employee is qualified.

#### SEC. 15. FEDERAL PRISON INDUSTRIES REPORT TO CONGRESS.

Section 4127 of title 18, United States Code, is amended to read as follows:

##### “§4127. Federal Prison Industries report to Congress

“(a) IN GENERAL.—Pursuant to chapter 91 of title 31, the board of directors of Federal Prison Industries shall submit an annual report to Congress on the conduct of the business of the corporation during each fiscal year and the condition of its funds during the fiscal year.

“(b) CONTENTS OF REPORT.—In addition to the matters required by section 9106 of title 31, and such other matters as the board considers appropriate, a report under subsection (a) shall include—

“(1) a statement of the amount of obligations issued under section 4129(a)(1) of this title during the fiscal year;

“(2) an estimate of the amount of obligations that will be issued in the following fiscal year;

“(3) an analysis of—

“(A) the corporation's total sales for each specific product and type of service sold to the Federal agencies and the commercial market;

“(B) the total purchases by each Federal agency of each specific product and type of service;

“(C) the corporation's share of such total Federal Government purchases by specific product and type of service; and

“(D) the number and disposition of disputes submitted to the heads of the Federal departments and agencies pursuant to section 4124(e) of this title;

“(4) an allocation of the profits of the corporation, both gross and net, to—

“(A) educational, training, release-preparation opportunities for inmates;

“(B) opening new factories; and

“(C) improving the productivity and competitiveness of existing factories;

“(5) an analysis of the inmate workforce that includes—

“(A) the number of inmates employed;

“(B) the number of inmates utilized to produce products or furnish services sold in the commercial market;

“(C) the number and percentage of employed inmates by the term of their incarceration; and

“(D) the various hourly wages paid to inmates employed with respect to the production of the various specific products and types of services authorized for production and sale to Federal agencies and in the commercial market; and

“(6) data concerning employment obtained by former inmates upon release to determine whether the employment provided by Federal Prison Industries during incarceration provided such inmates with knowledge and skill in a trade or occupation that enabled such former inmate to earn a livelihood upon release.

“(c) PUBLIC AVAILABILITY.—Copies of an annual report under subsection (a) shall be made

available to the public at a price not exceeding the cost of printing the report.”.

#### SEC. 16. DEFINITIONS.

Chapter 307 of title 18, United States Code, is amended by adding at the end the following new section:

##### “§4131. Definitions

“As used in this chapter—

“(1) the term ‘assembly’ means the process of uniting or combining articles or components (including ancillary finished components or assemblies) so as to produce a significant change in form or utility, without necessarily changing or altering the component parts;

“(2) the term ‘current market price’ means, with respect to a specific product, the fair market price of the product within the meaning of section 15(a) of the Small Business Act (15 U.S.C. 644(a)), at the time that the contract is to be awarded, verified through appropriate price analysis or cost analysis, including any costs relating to transportation or the furnishing of any ancillary services;

“(3) the term ‘import-sensitive product’ means a product which, according to Department of Commerce data, has experienced competition from imports at an import to domestic production ratio of 25 percent or greater;

“(4) the term ‘labor-intensive manufacture’ means a manufacturing activity in which the value of inmate labor constitutes at least 10 percent of the estimate unit cost to produce the item by Federal Prison Industries;

“(5) the term ‘manufacture’ means the process of fabricating from raw or prepared materials, so as to impart to those materials new forms, qualities, properties, and combinations;

“(6) the term ‘reasonable share of the market’ means a share of the total purchases by the Federal departments and agencies, as reported to the Federal Procurement Data System for—

“(A) any specific product during the 3 preceding fiscal years, that does not exceed 20 percent of the Federal market for the specific product; and

“(B) any specific service during the 3 preceding fiscal years, that does not exceed 5 percent of the Federal market for the specific service; and

“(7) the term ‘services’ has the meaning given the term ‘service contract’ by section 37.101 of the Federal Acquisition Regulation (48 C.F.R. 36.102), as in effect on July 1, 2004.”.

#### SEC. 17. IMPLEMENTING REGULATIONS AND PROCEDURES.

(a) FEDERAL ACQUISITION REGULATION.—

(1) PROPOSED REVISIONS.—Proposed revisions to the Governmentwide Federal Acquisition Regulation to implement the amendments made by this Act shall be published not later than 60 days after the date of the enactment of this Act and provide not less than 60 days for public comment.

(2) FINAL REGULATIONS.—Final regulations shall be published not later than 180 days after the date of the enactment of this Act and shall be effective on the date that is 30 days after the date of publication.

(3) PUBLIC PARTICIPATION.—The proposed regulations required by subsection (a) and the final regulations required by subsection (b) shall afford an opportunity for public participation in accordance with section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b).

(b) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The Board of Directors of Federal Prison Industries shall issue regulations defining the terms specified in paragraph (2).

(2) TERMS TO BE DEFINED.—The Board of Directors shall issue regulations for the following terms:

(A) Prison-made product.

(B) Prison-furnished service.

(C) Specific product.

(D) Specific service.

(3) SCHEDULE FOR REGULATORY DEFINITIONS.—(A) Proposed regulations relating to the matter described in subsection (b)(2) shall be published not later than 60 days after the date of



enactment of this Act and provide not less than 60 days for public comment.

(B) Final regulations relating to the matters described in subsection (b)(2) shall be published not less than 180 days after the date of enactment of this Act and shall be effective on the date that is 30 days after the date of publication.

(4) ENHANCED OPPORTUNITIES FOR PUBLIC PARTICIPATION AND SCRUTINY.—

(A) ADMINISTRATIVE PROCEDURE ACT.—Regulations issued by the Board of Directors shall be subject to notice and comment rulemaking pursuant to section 553 of title 5, United States Code. Unless determined wholly impracticable or unnecessary by the Board of Directors, the public shall be afforded 60 days for comment on proposed regulations.

(B) ENHANCED OUTREACH.—The Board of Directors shall use means designed to most effectively solicit public comment on proposed regulations, procedures, and policies and to inform the affected public of final regulations, procedures, and policies.

(C) OPEN MEETING PROCESSES.—The Board of Directors shall take all actions relating to the adoption of regulations, operating procedures, guidelines, and any other matter relating to the governance and operation of Federal Prison Industries based on deliberations and a recorded vote conducted during a meeting open to the public, unless closed pursuant to section 552(b) of title 5, United States Code.

(c) SECRETARY OF LABOR.—

(1) SCHEDULE FOR REGULATORY ACTION.—Upon receipt of a request from the Federal Prison Industries Board of Directors, pursuant to section 11(d)(2), to establish an inmate training wage pursuant to section 14(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. 214(a)), the Secretary of Labor, in consultation with the Attorney General, shall issue—

(A) an advanced notice of proposed rulemaking within 60 days;

(B) an interim regulation with concurrent request for public comments within 180 days; and  
(C) a final regulation within 365 days.

(2) ALTERNATIVE TO TIMELY ISSUANCE.—In the event that the Secretary of Labor fails to issue an interim inmate training wage by the date required by paragraph (1)(B), the Federal Prison Industries Board of Directors may prescribe an interim inmate training wage, which shall be in an amount not less than 50 percent of the amount of the minimum wage prescribed pursuant to section 6(a)(1) of such Act (29 U.S.C. 206(a)(1)).

(3) CONTINUED USE OF INTERIM INMATE TRAINING WAGE.—

(A) The interim inmate training wage issued pursuant to paragraph (1)(B) or prescribed under paragraph (2) shall remain in effect until the effective date of a final regulation, issued pursuant to paragraph (1)(C).

(B) An eligible entity having an approved agreement with Federal Prison Industries pursuant to section 4124b of title 18, United States Code, may continue to pay participating inmates at the wages prescribed in the agreement for the duration of the agreement, if those wages comply with the standards of the interim inmate training wage issued pursuant to paragraph (1)(B) or prescribed under paragraph (2).

(4) EXISTING AGREEMENTS WITH NONCONFORMING WAGES.—Any for-profit business concern having an agreement with Federal Prison Industries in effect on the date of enactment of this Act, under which Federal inmates are furnishing services that are being introduced into the commercial market, may continue to pay wages at rates specified in the agreement for the duration of the term of such agreement.

## SEC. 18. RULES OF CONSTRUCTION.

(a) AGENCY BID PROTESTS.—Subsection (e) of section 4124 of title 18, United States Code, as amended by section 2, is not intended to alter any rights of any offeror other than Federal

Prison Industries to file a bid protest in accordance with other law or regulation in effect on the date of the enactment of this Act.

(b) JAVITS-WAGNER-O'DAY ACT.—Nothing in this Act is intended to modify the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.).

## SEC. 19. EFFECTIVE DATE AND APPLICABILITY.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) APPLICABILITY.—Section 4124 of title 18, United States Code, as amended by section 2, shall apply to any requirement for a product or service offered by Federal Prison Industries needed by a Federal department or agency after the effective date of the final regulations issued pursuant to section 17(a)(2), or after September 30, 2007, whichever is earlier.

## SEC. 20. CLERICAL AMENDMENTS.

The table of sections for chapter 307 of title 18, United States Code, is amended—

(1) by amending the item relating to section 4121 to read as follows:

“4121. Federal Prison Industries; Board of Directors: executive management.”;

(2) by amending the item relating to section 4124 to read as follows:

“4124. Governmentwide procurement policy relating to purchases from Federal Prison Industries.”;

(3) by inserting after the item relating to section 4124 the following new items:

“4124a. Additional inmate work opportunities through public service activities.

“4124b. Re-entry employment preparation through work-based training and apprenticeship.”;

(4) by amending the item relating to section 4127 to read as follows:

“4127. Federal Prison Industries report to Congress.”;

and

(5) by adding at the end the following new items:

“4130. Construction of provisions.

“4131. Definitions.”.

The Acting CHAIRMAN. No amendment to the committee amendment is in order except the amendments printed in House Report 109-647. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent of the amendment, shall not be subject to amendment and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR.

SENSENBRENNER

The Acting CHAIRMAN. It is now in order to consider amendment No. 1 printed in House Report 109-647.

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. SENSENBRENNER:

Page 8, lines 13 and 14, strike “offer the price of” and insert “offered price”.

Page 20, line 3, strike “(i)” and insert “(j)”.

Page 21, line 21, strike “2007” and insert “2008”.

Page 21, line 22, strike “2008” and insert “2009”.

Page 21, line 23, strike “2009” and insert “2010”.

Page 21, line 24, strike “2010” and insert “2011”.

Page 21, line 25, strike “2011” and insert “2012”.

Page 23, line 1, strike “2011” and “2012”.

Page 33, lines 16 and 20, strike “2004” each place it appears and insert “2006”.

Page 33, line 21, strike “2010” and insert “2011”.

Page 36, line 26, strike “2008” and insert “2007”.

Page 55, lines 3 and 4, strike “International Trade Commission” and insert “Department of Commerce”.

Page 61, line 2, strike “2007” and insert “2009”.

Page 61, line 4, strike “2010” and insert “2012”.

Page 61, line 8, strike “2013” and insert “2014”.

Page 66, strike lines 1 through 3, and insert the following (and conform the table of contents accordingly):

## SEC. 13. MANAGEMENT MATTERS.

Page 66, line 4, insert “(a) ADDITIONAL FLEXIBILITIES.—” before “Section 4122(b)(3)”.

Page 66, after line 15, insert the following:

(b) COST ACCOUNTING SYSTEM.—

(1) ESTABLISHMENT.—Federal Prison Industries shall establish a cost accounting system that meets the requirements of part 30 (Cost Accounting Standards Administration) of the Federal Acquisition Regulation (48 C.F.R. part 30). The compliance of the cost accounting system with such standards shall be annually verified as part of the independent audit of Federal Prison Industries, Inc., pursuant to section 9106(b) of title 31, United States Code.

(2) APPLICATION OF RELATED PROVISION.—Section 4124(c)(2) of title 18, United States Code, shall apply when Federal Prison Industries has been found to have a complaint cost accounting system pursuant to paragraph (1).

The Acting CHAIRMAN. Pursuant to House Resolution 997, the gentleman from Wisconsin (Mr. SENSENBRENNER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this manager's amendment would make technical corrections to H.R. 2965. The amendment modifies 13 dates in various provisions of the bill to reflect the passage of time since its introduction, and also corrects one sectional cross-reference, and a reference to an executive branch agency.

In addition, this amendment adds a provision to correct an amendment that was accepted during the Judiciary Committee's markup, which would require Federal Prison Industries, Inc., to establish a cost accounting system. This technical change is necessary to implement the amendment. Finally, the proposed amendment makes a grammatical correction.

The changes are all technical in nature, but essential to the proper implementation of the bill. I urge my colleagues to support the amendment.

Mr. Chairman, I reserve the balance of my time.

The Acting CHAIRMAN. Does the gentleman from Michigan claim the time in opposition?

Mr. CONYERS. I do.

The Acting CHAIRMAN. The gentleman from Michigan is recognized for 5 minutes.

Mr. CONYERS. Mr. Chairman, I rise to support the amendment because it is technical in nature, and I am sure thereby that there will be little objection to it.

Mr. Chairman, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the balance of my time.

I am happy that between the time the gentleman rose to oppose the amendment and the time he started speaking he was persuaded to support the amendment.

Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. SCOTT OF VIRGINIA

The Acting CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 109-647.

Mr. SCOTT of Virginia. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. SCOTT of Virginia:

Page 7, line 21, insert before the period the following: "and, in the discretion of the Attorney General, other agencies and offices of the Department of Justice, on a contract-by-contract basis".

The Acting CHAIRMAN. Pursuant to House Resolution 997, the gentleman from Virginia (Mr. SCOTT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Virginia.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment would also authorize the Justice Department to acquire products from the Federal Prison Industries on a non-competitive basis as deemed appropriate by the Attorney General.

Along with the Bureau of Prisons, the Attorney General has the responsibility for the safe, productive operation of Federal prisons and should, therefore, have the authority to ensure that all operations under his control are available to be directed to this effort. And insofar as Federal Prison Industries program is concerned, we know it is an effective tool to help the prison operations.

This could be a much more realistic option for the Attorney General to ensure against disruption at a prison from the loss of jobs and contracts than the notion in the bill that he would have to declare the prison unmanageable without a particular contract. That is what is in the bill.

It is not the wholesale authority for the Attorney General to direct any agency to award all of its FPI contracts, but only as deemed necessary or appropriate by the Attorney General, and it only covers Justice Department agencies.

Remember, Mr. Chairman, we are trying to create jobs and manage the prisons. That is what this amendment would help the Attorney General do. I hope it would be the body's pleasure to adopt the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I claim the time in opposition to the amendment.

The Acting CHAIRMAN. The gentleman from Wisconsin is recognized.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the underlying bill permits sole-source contracts between the Federal Bureau of Prisons and the Federal Prison Industries. This amendment would extend the sole-source authority to the entire Department of Justice.

Existing law allows a head of any executive agency to make a sole-source contract award, if the agency head makes a determination that such an award is in the "public interest." Following such a determination, Congress must be notified and the contract award suspended for 30 calendar days.

This bill expressly provides the Attorney General to grant a noncompetitive contract whenever it is deemed necessary to maintain prison safety. Additionally, the bill allows the FPI board of directors to exceed the level specified for FPI sales if good cause is shown, which would include maintaining inmate equipment.

DOJ operates a number of agencies, and the cost to the private sector in lost jobs and businesses would be extensive. In addition, the Department of Justice contains several law enforcement agencies, and requiring their personnel to utilize products made by inmates may raise safety concerns.

Finally, the purpose of this legislation is to ensure that the government corporations do not take away opportunities from private businesses and to ensure that the taxpayers' money is wisely spent. The amendment would undermine that goal by denying the entire Department of Justice access to the benefits of competitive pricing, thereby forcing the taxpayer to bear the burden of higher prices.

I urge my colleagues to reject this amendment.

Mr. Chairman, I reserve the balance of my time.

PARLIAMENTARY INQUIRY

Mr. SENSENBRENNER. Parliamentary inquiry, Mr. Chairman. Do either Mr. CONYERS or I have the right to close?

The Acting CHAIRMAN. The gentleman from Wisconsin has the right to close.

Mr. SENSENBRENNER. It is the intention of the gentleman from Wisconsin to yield for the closing statement to the gentleman from Michigan, but I would ask the gentleman from Virginia to use up his time and then Mr. CONYERS can close.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself the balance of my time.

I would close by saying this amendment would allow the Attorney General to make sure that there are enough jobs in the Federal Prison Industries to help manage the prisons. We know the more jobs there are, the less crime there will be in the future. That is the purpose of this amendment, managing the prisons and reducing crime.

I would hope we would adopt that goal by allowing prisons to be managed better and reducing crime by adopting the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield the balance of my time to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, I thank the gentleman for yielding me this time.

When you examine this amendment, this creates a loophole that could undermine the entire bill and any attempt that we have toward educating inmates, teaching vocational skills, and getting contracts for jobs because I, for one, am not for putting this into the tender hands and the gentle mercies of the Attorney General of the United States.

I mean, I have never heard them even suggest that they support anything in this bill. So for me to want to create this carve-out to allow the Attorney General to direct agencies within the Department of Justice to award individual contracts to Federal Prison Industries on a noncompetitive basis is going way too far in terms of us trying to bring some justice to this bill.

Now, we have to control our emotions here, ladies and gentlemen. This is about how we help people who have violated the law return to society. There is more than one way to do it. There are several ways to do it. We are in the process of creating what we think will be a new and better and more balanced way than the way that we have now.

This is not slamming the Federal Prison Industries. As a matter of fact, under the provisions of this bill, they will be able to operate with nonprofits, with government organizations, with churches. There are a lot of ways to deal with this.

The important thing is we all come together and get the money. Somebody said \$75 million. Do you know how far \$75 million goes in the expenditures that we are making on Iraq every day? This should not be the toughest assignment that those of us who support rehabilitation programs would make.

I urge that if there is any one amendment that should be rejected, it would be one that would leave this measure to the tender mercies of the Attorney General of the United States.

I thank the gentleman for yielding me this time.

Mr. SENSENBRENNER. Mr. Chairman, I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. SCOTT).

The question was taken; and the Acting Chairman announced that the yeas appeared to have it.

Mr. SCOTT of Virginia. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia will be postponed.

It is now in order to consider amendment No. 3 printed in House Report 109-647.

It is now in order to consider amendment No. 4 printed in House Report 109-647.

AMENDMENT NO. 5 OFFERED BY MR. SCOTT OF VIRGINIA

The Acting CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 109-647.

Mr. SCOTT of Virginia. Mr. Chairman, I offer an amendment.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. SCOTT of Virginia:

Page 35, line 6, insert after "services" the following: "except that the Board of Directors may authorize Federal Prison Industries to continue providing to private, for-profit businesses services of the type and to the extent being performed on the date of the enactment of the Federal Prison Industries Competition in Contracting Act of 2006, on a competitive basis".

The Acting CHAIRMAN. Pursuant to House Resolution 997, the gentleman from Virginia (Mr. SCOTT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Virginia.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment would allow the level of service contracts now being performed by FPI to continue at that level while prohibiting further expansion. There is no mandatory source provision for service contracts so they are already competitive. Most of the contracts involve work that would otherwise be done offshore, so FPI's competition is with foreign workers, not Americans.

There have been no complaints about service contracts. Service contracts constitute a significant portion of the inmate work opportunities now in the program. None of these authorities individually or combined in the bill will

realistically produce sufficient work opportunities for inmates to replace the loss of jobs from the elimination of mandatory source and the loss of current service contract jobs.

Stable FPI jobs are critical to the efficient and safe operation of Federal prisons and the rehabilitation of inmates which correlates directly with public safety. There is no record to suggest that this part of FPI is broken beyond the philosophical view that it represents some kind of unfair competition to American businesses and workers; but in this case, there is virtually no competition. The reality is that this is not true, and no one has suggested that FPI service contracts today have any significant impact on American businesses or workers.

Let us at least continue the level of service contracts we have now in an effort to reduce crime in the future. We are trying to reduce crime, trying to help manage the prisons. This will be go a little way into preserving some of those opportunities.

Mr. Chairman, I reserve the balance of my time.

□ 1230

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment.

The Acting CHAIRMAN. The gentleman from Wisconsin is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Chairman, this amendment is a bad one because it would authorize the FPI to sell inmate-furnished services in the commercial market, which it first initiated in August of 1998.

In February of that year, FPI obtained a legal memorandum from the Department of Justice Criminal Division stating that the sale of inmate-furnished services was not expressly prohibited by existing law, notwithstanding the fact that 18 U.S.C. section 1761(a) generally prohibits the introduction of results of inmate labor into the commercial market.

This view was later adopted as the Department's official position, and though not issued by the Office of Legal Counsel, the then Attorney General offered FPI's new commercial market service initiative based on the Criminal Division's opinion.

FPI's 1934 authorizing statute prohibits sales into the commercial market. The Attorney General was persuaded to authorize commercial sales of inmate-furnished services by FPI because neither FPI's authorizing statute nor the generally applicable prohibition, also from the 1930s, specifically mentions services. In the 1930s, services were not a large part of the economy, so they were not specifically mentioned by the legislation.

However, the clear intent of the statute was to prohibit such sales in the commercial market, because they would create unfair competition and cause liability concerns. The reinterpretation reversed 75 years of prece-

dent. The bill would clarify that FPI cannot sell either goods or services in the commercial marketplace. It would grandfather all contracts that are operational at the time of the agreement. That for the first time specifically authorized FPI to enter into services contracts with Federal agencies. However, it would not allow new contracts for services in the commercial marketplace.

The amendment would permit FPI to continue its 1998 self-authorized expansion into the commercial services marketplace without restriction. It would continue to subject non-inmate workers being paid market driven wages, and the firms that employ them to unfair competition, using FPI workers being paid an average FPI wage of \$.90 an hour. If you are for the minimum wage, you would have to be against this amendment, because there is competition.

Additionally, telemarketing contracts, which are the most common forms of services provided, might allow inmates access to the personal financial information of individuals, raising significant privacy concerns. If you are for privacy, you ought to be against the amendment.

For these reasons, I hope the amendment is defeated.

Mr. Chairman, I reserve the balance of my time.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume, and just acknowledge this amendment is just designed to preserve a few of the jobs that we have got left. The amendments that passed in 2000 and 2001 have cost. If they had not passed, we would have 9,000 more jobs than we have now. We have already lost jobs. We would have had a lot more jobs than we had.

We are just trying to preserve job opportunities, which have been shown to reduce crime. Now, I know it has already been said that trying to reduce crime is misguided around here, but that is the goal of the bill, and everybody who has studied it knows that is what would happen. If you have more jobs, you will have less crime. That is all we are trying to do.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield the balance of my time to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. I thank the gentleman from Wisconsin.

Mr. Chairman, this amendment raises an interesting question. We exclude services, for-profit business services, but we include everything else. What is the difference between the services and the products? We have to move in an organized fashion or not. To bifurcate this into services being excluded, I think, doesn't make any sense at all.

Now, we are back to the continued mantra that less jobs mean more crime, so if you are for less crime, you

are for more jobs. But what we are doing, in this bill, goes back to an earlier consideration in which we said, which the gentleman from Virginia said, that we could guarantee these jobs and the \$75 million, that this would work out.

Of course, I don't know where we get guarantee tickets around here. But I am going to work to the best of my ability, and I have been in this corrections business for quite a while, to make sure that we get the money. It is very, very important that we do that.

I am going to urge our Members not to buy into this half-of-a-loaf notion that services should somehow be allowed to continue and Federal Prison Industries not.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. SCOTT).

The question was taken; and the Acting Chairman announced that the noes appeared to have it.

Mr. SCOTT of Virginia. Mr. Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia will be postponed.

#### SEQUENTIAL VOTES POSTPONED IN COMMITTEE OF THE WHOLE

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, proceedings will now resume on those amendments on which further proceedings were postponed, in the following order:

Amendment No. 2 by Mr. SCOTT of Virginia.

Amendment No. 5 by Mr. SCOTT of Virginia.

The Chair will reduce to 5 minutes the time for the second electronic vote in this series.

#### AMENDMENT NO. 2 OFFERED BY MR. SCOTT OF VIRGINIA

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

#### RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 77, noes 339, not voting 16, as follows:

[Roll No. 441]

AYES—77

Bachus	Clay	Filner
Barrow	Clyburn	Green (WI)
Berry	Cummings	Grijalva
Bishop (GA)	Davis (IL)	Gutierrez
Boyd	Davis (KY)	Gutknecht
Brown, Corrine	Davis, Tom	Hastings (FL)
Campbell (CA)	Doggett	Hefley
Carson	Farr	Hensarling
Chabot	Fattah	Hinchey

Holden	McDermott
Holt	McHugh
Honda	McKinney
Hyde	Meeks (NY)
Jackson (IL)	Melancon
Jackson-Lee	Miller (NC)
(TX)	Mollohan
Johnson, E. B.	Moore (WI)
Jones (OH)	Moran (VA)
Kanjorski	Murtha
Kolbe	Pastor
Kucinich	Payne
LaHood	Petri
Larson (CT)	Price (NC)
Lewis (CA)	Rahall
Lofgren, Zoe	Rogers (KY)
Lungren, Daniel	Ross
E.	Rush

#### NOES—339

Abercrombie	DeGette	Kelly
Ackerman	Delahunt	Kennedy (MN)
Aderholt	DeLauro	Kennedy (RI)
Akin	Dent	Kildee
Alexander	Diaz-Balart, L.	Kilpatrick (MI)
Allen	Diaz-Balart, M.	Kind
Andrews	Dicks	King (IA)
Baca	Doolittle	King (NY)
Baird	Doyle	Kingston
Baker	Drake	Kirk
Baldwin	Dreier	Kline
Barrett (SC)	Duncan	Knollenberg
Bartlett (MD)	Edwards	Kuhl (NY)
Barton (TX)	Ehlers	Langevin
Bass	Emanuel	Lantos
Bean	Emerson	Larsen (WA)
Beauprez	Engel	Latham
Becerra	English (PA)	LaTourette
Berkley	Eshoo	Leach
Berman	Etheridge	Lee
Biggert	Evans	Levin
Bilbray	Everett	Lewis (GA)
Bilirakis	Feeney	Lewis (KY)
Bishop (NY)	Ferguson	Linder
Bishop (UT)	Fitzpatrick (PA)	Lipinski
Blackburn	Flake	LoBiondo
Blumenauer	Foley	Lowe
Blunt	Forbes	Lucas
Boehlert	Ford	Lynch
Boehner	Fortenberry	Mack
Bonilla	Fossella	Maloney
Bonner	Fox	Manzullo
Bono	Frank (MA)	Marchant
Boozman	Franks (AZ)	Markey
Boren	Frelinghuysen	Marshall
Boswell	Gallegly	Matheson
Boucher	Garrett (NJ)	Matsui
Bradley (NH)	Gerlach	McCarthy
Brady (PA)	Gibbons	McCaul (TX)
Brady (TX)	Gilchrest	McCollum (MN)
Brown (OH)	Gillmor	McCotter
Brown (SC)	Gingrey	McCrery
Brown-Waite,	Gohmert	McGovern
Ginny	Gonzalez	McHenry
Burgess	Goode	McIntyre
Burton (IN)	Goodlatte	McKeon
Butterfield	Gordon	McMorris
Buyer	Granger	Rodgers
Calvert	Graves	McNulty
Camp (MI)	Green, Al	Meehan
Cannon	Green, Gene	Meek (FL)
Cantor	Hall	Mica
Capito	Harman	Michaud
Capps	Harris	Millender-
Capuano	Hart	McDonald
Cardin	Hastings (WA)	Miller (FL)
Cardoza	Hayes	Miller (MI)
Carnahan	Hayworth	Miller, Gary
Carter	Herger	Miller, George
Castle	Herseth	Moore (KS)
Chandler	Higgins	Moran (KS)
Chocola	Hinojosa	Musgrave
Coble	Hobson	Myrick
Cole (OK)	Hoekstra	Nadler
Conaway	Hooey	Napolitano
Conyers	Hostettler	Neal (MA)
Costa	Hulshof	Neugebauer
Costello	Hunter	Northup
Cramer	Inglis (SC)	Norwood
Crenshaw	Inslee	Nunes
Crowley	Israel	Nussle
Cubin	Issa	Oberstar
Cuellar	Istook	Obey
Davis (AL)	Jefferson	Oliver
Davis (CA)	Jenkins	Ortiz
Davis (TN)	Jindal	Osborne
Davis, Jo Ann	Johnson (CT)	Otter
Deal (GA)	Johnson (IL)	Owens
DeFazio	Jones (NC)	Oxley

Pallone	Ryan (WI)	Taylor (NC)
Pascarell	Ryun (KS)	Terry
Paul	Salazar	Thomas
Pearce	Sanchez, Linda	Thompson (CA)
Pelosi	T.	Thornberry
Pence	Sanchez, Loretta	Tiahrt
Peterson (MN)	Sanders	Tiberi
Peterson (PA)	Schiff	Tierney
Pickering	Schmidt	Towns
Pitts	Schwartz (PA)	Turner
Platts	Schwarz (MI)	Udall (NM)
Poe	Scott (GA)	Upton
Pombo	Sensenbrenner	Van Hollen
Pomeroy	Sessions	Velázquez
Porter	Shadegg	Walden (OR)
Price (GA)	Shaw	Walsh
Pryce (OH)	Shays	Wamp
Putnam	Sherman	Waters
Radanovich	Shuster	Watt
Ramstad	Simmons	Waxman
Rangel	Simpson	Weiner
Regula	Skelton	Weldon (FL)
Rehberg	Slaughter	Weldon (PA)
Reichert	Smith (NJ)	Weller
Renzi	Smith (TX)	Westmoreland
Reyes	Smith (WA)	Wexler
Reynolds	Snyder	Whitfield
Rogers (AL)	Sodrel	Wicker
Rogers (MI)	Solis	Wilson (NM)
Rohrabacher	Souder	Wilson (SC)
Ros-Lehtinen	Stearns	Woolsey
Rothman	Stupak	Wu
Roybal-Allard	Sweeney	Young (AK)
Royce	Tancred	Young (FL)
Ruppersberger	Tanner	
Ryan (OH)	Tauscher	

#### NOT VOTING—16

Boustany	Dingell	Ney
Case	Hoyer	Stark
Cleaver	Johnson, Sam	Strickland
Cooper	Kaptur	Sullivan
Culberson	Keller	
Davis (FL)	Murphy	

□ 1306

Ms. HARRIS, Messrs. SIMPSON, SOUDER, SMITH of New Jersey, Mrs. MALONEY, Mrs. NORTHUP, Ms. LEE, Messrs. CROWLEY, MEEK of Florida, and CANNON changed their vote from “aye” to “no.”

Messrs. TAYLOR of Mississippi, KUCINICH, CAMPBELL of California, RAHALL, MCHUGH, and HENSARLING changed their vote from “no” to “aye.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. MURPHY. Mr. Chairman, on rollcall No. 441, had I been present, I would have voted “no.”

#### AMENDMENT NO. 5 OFFERED BY MR. SCOTT OF VIRGINIA

The Acting CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. SCOTT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

#### RECORDED VOTE

The Acting CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The Acting CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 80, noes 332, not voting 20, as follows:

[Roll No. 442]

## AYES—80

Bachus Hinchey Oberstar  
Barrow Holden Obey  
Berry Holt Paul  
Blumenauer Honda Payne  
Boyd Hyde Petri  
Campbell (CA) Jackson (IL) Price (NC)  
Cardoza Jackson-Lee  
Carson (TX) Rahall  
Chabot Johnson, E. B. Rogers (KY)  
Clay Kanjorski Rush  
Clyburn Kolbe Sabo  
Costa Kucinich Saxton  
Cummings LaHood Schakowsky  
Davis (CA) Lofgren, Zoe Scott (VA)  
Davis (IL) Lungren, Daniel Serrano  
Davis (KY) E. Sherwood  
Davis, Tom McCollum (MN) Shimkus  
Doggett McDermott Spratt  
Farr McHugh Taylor (MS)  
Fattah McKinney Thompson (MS)  
Feeney Meeks (NY) Towns  
Filner Melancon Udall (CO)  
Goodlatte Miller (NC) Visclosky  
Green (WI) Miller, George Wasserman  
Gutierrez Mollohan Schultz  
Gutknecht Moore (WI) Watson  
Hastings (FL) Moran (VA) Wolf  
Hensarling Murtha Wynn

## NOES—332

Abercrombie Costello Hayworth  
Ackerman Cramer Hefley  
Aderholt Crenshaw Herger  
Akin Crowley Herseth  
Alexander Cubin Higgins  
Allen Cuellar Hinojosa  
Andrews Davis (AL) Hobson  
Baca Davis (TN) Hoekstra  
Baird Davis, Jo Ann Hooley  
Baker Deal (GA) Hostettler  
Baldwin DeFazio Hulshof  
Barrett (SC) DeGette Hunter  
Bartlett (MD) Delahunt Inglis (SC)  
Barton (TX) DeLauro Inslee  
Bass Dent Israel  
Bean Diaz-Balart, L. Issa  
Beauprez Diaz-Balart, M. Istook  
Becerra Dicks Jefferson  
Berkley Dingell Jenkins  
Berman Doolittle Jindal  
Biggert Doyle Johnson (CT)  
Bilbray Drake Johnson (IL)  
Bilirakis Dreier Jones (NC)  
Bishop (GA) Duncan Jones (OH)  
Bishop (NY) Edwards Kelly  
Bishop (UT) Ehlers Kennedy (MN)  
Blackburn Emanuel Kennedy (RI)  
Blunt Emerson Kildee  
Boehlert Engel Kilpatrick (MI)  
Boehner English (PA) Kind  
Bonilla Eshoo King (IA)  
Bonner Etheridge King (NY)  
Bono Evans Kingston  
Boozman Everett Kirk  
Boren Ferguson Kline  
Boucher Fitzpatrick (PA) Knollenberg  
Boustany Flake Kuhl (NY)  
Bradley (NH) Foley Langevin  
Brady (PA) Forbes Lantos  
Brady (TX) Ford Larsen (WA)  
Brown (OH) Fortenberry Larson (CT)  
Brown (SC) Fossella Latham  
Brown, Corrine Foxx LaTourette  
Brown-Waite, Frank (MA) Leach  
Ginny Franks (AZ) Lee  
Burgess Frelinghuysen Levin  
Burton (IN) Gallegly Lewis (CA)  
Butterfield Garrett (NJ) Lewis (GA)  
Buyer Gerlach Lewis (KY)  
Calvert Gibbons Linder  
Camp (MI) Gilchrest Lipinski  
Cannon Gillmor LoBiondo  
Cantor Gingrey Lowey  
Capito Gohmert Lucas  
Capps Gonzalez Lynch  
Capuano Goode Mack  
Cardin Gordon Manzanillo  
Carnahan Granger Marchant  
Carter Graves Markey  
Castle Green, Al Marshall  
Chandler Green, Gene Matheson  
Chocola Grijalva Matsui  
Coble Hall McCarthy  
Cole (OK) Harman McCaul (TX)  
Conaway Hart McCotter  
Conyers Hayes McCreary

McGovern Pombo Slaughter  
McHenry Pomeroy Smith (NJ)  
McIntyre Porter Smith (TX)  
McKeon Price (GA) Smith (WA)  
McMorris Pryce (OH) Snyder  
Rodgers Putnam Sodrel  
McNulty Radanovich Solis  
Meehan Ramstad Souder  
Meek (FL) Rangel Stearns  
Mica Regula Stupak  
Michaud Rehberg Sullivan  
Millender Reichert Sweeney  
McDonald Renzi Tancredo  
Miller (FL) Reyes Tanner  
Miller (MI) Reynolds Tauscher  
Miller, Gary Rogers (AL) Taylor (NC)  
Scott (VA) Rogers (MI) Terry  
Moran (KS) Rohrabacher Thomas  
Musgrave Ros-Lehtinen Thompson (CA)  
Myrick Rothman Thornberry  
Nadler Roybal-Allard Tiahrt  
Napolitano Royce Tiberi  
Neal (MA) Ruppersberger Tierney  
Neugebauer Ryan (OH) Turner  
Northup Ryan (WI) Udall (NM)  
Norwood Ryan (KS) Upton  
Nunes Salazar Van Hollen  
Nussle Sanchez, Linda Velazquez  
Oliver T. Walden (OR)  
Ortiz Sanchez, Loretta Walsh  
Osborne Sanders Wamp  
Otter Schiff Watt  
Owens Schmidt Waxman  
Oxley Schwartz (PA) Weiner  
Pallone Schwarz (MI) Weldon (FL)  
Pascarell Scott (GA) Weldon (PA)  
Pastor Sensenbrenner Weller  
Pearce Sessions Westmoreland  
Pelosi Shadegg Wexler  
Pence Shaw Whitfield  
Peterson (MN) Shays Wilson (NM)  
Peterson (PA) Sherman Wilson (SC)  
Pickering Shuster Woolsey  
Pitts Simmons Wu  
Platts Simpson Young (AK)  
Poe Skelton Young (FL)

## NOT VOTING—20

Boswell Hastings (WA) Ney  
Case Hoyer Ross  
Cleaver Johnson, Sam Stark  
Cooper Kaptur Strickland  
Culberson Keller Waters  
Davis (FL) Maloney Wicker  
Harris Murphy

□ 1314

Mr. OBEY and Mr. BLUMENAUER changed their vote from “no” to “aye.” So the amendment was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. ROSS. Mr. Chairman, earlier this afternoon I missed rollcall vote 442. I would like to state for the RECORD that I would have voted for rollcall vote 442, which was the Scott (D-VA) amendment that would allow the Federal Prison Industries to continue contracts, of the type being performed on the date of enactment of the bill, that provide services to for-profit businesses.

Stated for:

Mr. MURPHY. Mr. Chairman, on rollcall No. 442, had I been present, I would have voted “no.”

## PERSONAL EXPLANATION

Mr. COOPER. Mr. Chairman, earlier today, I was speaking at an event being held in the basement of the Rayburn building and because the clock and bell system did not work in Room B-338, I missed two votes on amendments to H.R. 2965, the Federal Prison Industries Reform Act of 2006. Had I been present, I would have voted “aye” on the first Scott Amendment and “aye” on the second Scott Amendment.

The Acting CHAIRMAN. The question is on the committee amendment

in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The Acting CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. SHIMKUS) having assumed the chair, Mr. GILLMOR, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2965) to amend title 18, United States Code, to require Federal Prison Industries to compete for its contracts minimizing its unfair competition with private sector firms and their non-inmate workers and empowering Federal agencies to get the best value for taxpayers' dollars, to provide a 5-year period during which Federal Prison Industries adjusts to obtaining inmate work opportunities through other than its mandatory source status, to enhance inmate access to remedial and vocational opportunities and other rehabilitative opportunities to better prepare inmates for a successful return to society, to authorize alternative inmate work opportunities in support of non-profit organizations and other public service programs, and for other purposes, pursuant to House Resolution 997, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on passage of H.R. 2965 will be followed by 5-minute votes on ordering the previous question on H. Res. 1002, and adoption of H. Res. 1002, if ordered.

The vote was taken by electronic device, and there were—yeas 362, nays 57, not voting 13, as follows: